

No. 12846

2677

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United States  
Court of Appeals  
for the Ninth Circuit.

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CHARLES D. BRONSON, JR.,

Appellant,

vs.

HUGH EARLE, Collector of Internal Revenue for  
the District of Oregon and United States of  
America,

Appellees.

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Transcript of Record

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Appeal from the United States District Court  
for the District of Oregon

FILED

MAY 15 1951

PAUL H. O'BRIEN

CLERK



No. 12846

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Court of Appeals  
for the Ninth Circuit.

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## INDEX

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Certificate of Clerk.....	145
Designation of Contents of Record and Points on Appeal.....	147
Docket Entries.....	20
Findings of Fact and Conclusions of Law.....	10
Conclusions of Law.....	14
Findings of Fact.....	10
Judgment .....	18
Names and Addresses of Attorneys of Record..	1
Notice of Appeal.....	19
Objections to Findings of Fact and Conclusions of Law.....	15
Order Overruling Objections and Ordering the Entry Thereof.....	18
Pre-Trial Order.....	3
Transcript of Proceedings.....	22
Witnesses, Plaintiff's:	
Bronson, Charles D.	
—direct .....	24, 74
—cross .....	80
—redirect .....	108, 112
—recross .....	110

## Witnesses, Plaintiff's—(Continued):

Bronson, Mildred P.

—direct .....	133
—cross .....	138
—redirect .....	138
—recross .....	139

Martin, Carey

—direct .....	49
—cross .....	56
—redirect .....	66, 70
—recross .....	67, 70

Roles, Janet

—direct .....	140
—cross .....	142

Roles, Richard C.

—direct .....	115
—cross .....	132

Stewart, Paris

—direct .....	113
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In the District Court of the United States  
For the State of Oregon  
No. Civ. 5299

CHARLES D. BRONSON, JR.,

Plaintiff,

vs.

HUGH EARLE, Collector of Internal Revenue and  
The United States of America,

Defendants.

### PRE-TRIAL ORDER

The cause coming on for pre-trial before Hon. James Alger Fee, United States District Judge, on July 10, 1950, plaintiff being represented by Warde H. Erwin, of his counsel, and defendant being represented by Victor E. Harr, Ass't United States Attorney.

Based upon proceedings had at said pre-trial, it is hereby

Ordered, that the following matters are admitted as to the issues framed by the Complaint herein and by the Answer to the Complaint.

#### I.

Defendant, Collector Hugh Earle, to whom \$6281.89 of tax sought to be recovered was paid was at the time of payment of said sum and now is the duly acting, constituted and appointed Collector of Internal Revenue.

## II.

Collector of Internal Revenue to whom \$19,415.25 of the tax sought to be recovered was at the time of commencement of this action not in office.

## III.

That plaintiff did report and pay to the former Collector of Internal Revenue on or before the due date the following taxes on income for the years in question as shown:

1944 .....	\$10,118.03
1945 .....	11,218.19
1946 .....	28,317.97

## IV.

That on May 13, 1947, plaintiff did pay to said former Collector the sum of \$19,415.25 for holding in suspense and without application to tax liability.

## V.

That on or about the 21st day of October, 1947, Commissioner of Internal Revenue proposed deficiency of income taxes against plaintiff for the tax years of 1944, 1945, 1946.

1944 .....	\$ 9,678.23
1945 .....	10,488.93
1946 .....	23,339.51

## VI.

That on the 17th day of November, 1947, plaintiff did duly and regularly file his protest against said proposed deficiency.

## VII.

That thereafter and on the 16th day of Feb., 1949, an assessment of additional income tax due was made against plaintiff in the sum of \$6,240.36, plus interest in the sum of \$21.53, which was assessed, and satisfied as follows:

	Assessment	Payments
1944 .....	\$9,678.23	
Interest .....	2,146.71	
Overassessment of plaintiff's wife .....		\$4,298.60
Less 5/13/47 deposit .....		6,633.95
Less interest abatement .....		892.39
1945 .....	10,488.93	
Interest .....	1,697.19	
Overassessment as above .....		5,530.67
Less 5/13/47 deposit .....		5,757.60
Less interest abatement .....		897.85
1946 .....	23,339.51	
Interest .....	2,376.15	
Overassessment as above by .....		12,451.62
Less paid .....		7,023.68
Bal. of tax due \$6,240.36 plus 1949 Int. \$21.53.....	\$6,261.89	

## VIII.

That plaintiff's wife reported during the years 1944, 1945, 1946 the following taxes on reported income:

1944 .....	\$ 4,298.60
1945 .....	5,530.67
1946 .....	12,451.62

which said payments were with her consent applied as shown in the preceding paragraph.

## IX.

That said assessments of additional income taxes against plaintiff resulted principally from the commissioner's determination that the amounts reported in the income tax returns of plaintiff's wife for the years 1944, 1945 and 1946 should be taxed to plaintiff, such reported income, the source and amounts of such reported income is as follows:

	Parkdale	Ashbaugh
1944	\$15,161.97	.....
1945	14,705.50	1,951.86
1946	26,471.79	6,209.41

## X.

Plaintiff did on the 10th day of May, 1949, file claim for refund of the amounts herein sought to be recovered, which claims were denied by Commissioner of Internal Revenue on December 19, 1949.

## XI.

That if judgment is in favor of plaintiff, that the parties will compute and agree on the amount of the award or that such amount may be fixed by subsequent order of the Court.

It is further ordered that the contested issue to be submitted for determination is as follows:

## I.

Whether the Commissioner of Internal Revenue erred in determining that certain income from Parkdale Lumber Co., Oreg., Ltd. and Ashbaugh Shingles and Shakes should be taxed to plaintiff rather than to plaintiff's wife.

## Contentions of Plaintiff

In connection with the contested issue framed by this order, plaintiff contends as follows:

### I.

Plaintiff contends that the Commissioner of Internal Revenue erred in assessing to and collecting from plaintiff additional income taxes based on the allocation of income reported to the Commissioner by plaintiff's wife as her income from Parkdale Lumber Co., Oreg., Ltd. and Ashbaugh Wood Shingles and Shakes for the years 1944, 1945 and 1946.

### II.

That the aforesaid assessments were illegally, erroneously and wrongfully assessed and collected.

### III.

That where a husband has no interest in or control over a partnership then the income therefrom may not be taxed to him as to the income from Ashbaugh Wood Shingles and Shakes.

### IV.

That the plaintiff, plaintiff's wife, R. C. Roles and Mrs. Janet Roles did intend to and did with a business purpose join together in the conduct of a business enterprise.

## Contentions of Defendants

### I.

The Commissioner of Internal Revenue properly

taxed the plaintiff on one-half of the income from the Parkdale Lumber Co. for the years 1944, 1945 and 1946.

## II.

The Commissioner of Internal Revenue properly taxed the plaintiff on amounts paid by Ashbaugh Wood Shingles and Shakes to Mildred P. Bronson during the taxable years 1945 and 1946.

## III.

That the burden is upon the plaintiff to prove that the purported partnership known as the Parkdale Lumber Co. was of sufficient substance, insofar as the purported interest of Mildred P. Bronson is concerned, to be recognized for income tax purposes.

## IV.

That the burden is upon the plaintiff to prove that the amounts paid to Mildred P. Bronson during the years involved by the Ashbaugh Wood Shingles and Shakes, a purported partnership, did not constitute in substance an assignment of income by taxpayer, taxable to him.

## Exhibits

It Is Ordered that the parties may offer in evidence at the trial of this action any and all of the following pre-trial exhibits without further identification or authentication, each of the parties, however, having reserved the right to object on other grounds to the admission in evidence of any or all said exhibits, to wit:

It is further ordered and agreed that this pre-trial order will govern the course of the trial and will not be amended, except by consent or to prevent manifest injustice. This pre-trial order will take the place of the pleadings. The parties agree to waive a jury and have the case tried before the Court sitting without a jury.

The Court, finding that the foregoing clearly and accurately reflects the pre-trial conference had herein and the stipulations and agreements of the parties, hereby ratifies and confirms the foregoing proceedings in all things and does hereby

Order that the said pre-trial order be and the same is hereby incorporated into and hereby made a part of the record in this case for the purpose of controlling the course of proceedings on the formal trial hereof before the Court.

Dated this 11th day of July, 1950.

/s/ JAMES ALGER FEE,  
District Judge.

Approved:

/s/ WARDE H. ERWIN,  
Of Attorneys for Plaintiff.

/s/ VICTOR E. HARR,  
Of Attorneys for Defendants.

/s/ THOMAS R. WINTER.

[Endorsed]: Filed July 11, 1950.



[Title of District Court and Cause.]

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Findings of Fact

The Court, after the trial of the case, and after duly considering all of the evidence in the case finds the facts as follows:

1.

Finds the facts and matters set forth in the pre-trial order entered in this case.

2.

Finds that plaintiff's wife, Mildred P. Bronson, contributed no capital directly or indirectly through any community property interest or otherwise to the Parkdale Lumber Company.

3.

Finds that plaintiff's wife made no substantial contribution of services to the Parkdale Lumber Company.

4.

Finds that plaintiff through his contribution of capital and through his management of the Parkdale Lumber Company actually created the right to receive and enjoy all of the income therefrom taxed to plaintiff, amounting to one-half of the income of the Parkdale Lumber Company.



5.

Finds that plaintiff actually received or actually controlled and treated as his own all of the one-half or the income of the Parkdale Lumber Company taxed, for federal income tax purposes, to him.

6.

Finds that the partnership arrangement known as the Parkdale Lumber Company made no substantial change in the economic relationship of plaintiff and his wife; he continued to earn and produce the income taxed to him and controlled its use and disposition.

7.

Finds that Mildred P. Bronson did not in any substantial manner influence the conduct of the business of the Parkdale Lumber Company or exercise any voice or control of the distribution of the income from the business.

8.

Finds that plaintiff and R. C. Roles actually controlled and dominated the business of the Parkdale Lumber Company.

9.

Finds from a consideration of all the pleadings, the pre-trial order and all of the evidence in the case, oral and documentary, including the partnership agreement, the conduct of the parties in the execution of its provisions, their statements, the testimony of all the witnesses, the relationship of the parties, their respective abilities and capital contributions, the actual control of the income and

the purposes for which it was used, and all other facts and circumstances throwing light or tending to show the true intent of the parties to the agreement, that plaintiff and his wife did not intend, in good faith and with a business purpose, to join together as partners in the conduct of the business of the Parkdale Lumber Company.

## 10.

Finds that plaintiff's wife was not brought into the business conducted as the Parkdale Lumber Company as a partner for a genuine business purpose; rather, she was brought into the business principally for the purpose of minimizing plaintiff's income taxes.

## 11.

Finds that the Ashbaugh Wood Shingles and Shakes partnership came about in this way. The Warrenton Shingle Company, entirely owned and operated by plaintiff and R. C. Roles, manufactured cedar shingles and shakes. A large part of its output was marketed in the Los Angeles, California, area. One of its customers, sometimes referred to as distributor, was a Mr. L. B. Ashbaugh of Los Angeles. Morgan Stark, one of the partners of the Beverly Roofing Company of Los Angeles, came to plaintiff and to Mr. Roles in an endeavor to purchase shingles. Mr. Stark was advised by plaintiff and his associate, Mr. Roles, that their output of shingles was committed and that they had no shingles for sale to the Beverly Roofing Company. Thereafter, Mr. Stark again contacted plaintiff and

Mr. Roles and advised them that the Beverly Roofing Company had purchased the Ashbaugh business and in order to secure shingles Stark proposed to take plaintiff and Mr. Roles into a partnership so that they might share in the profits on the sale of the shingles by the Beverly Roofing Company. The Warrenton Shingles Company was at that time selling its entire output of shingles at the ceiling price under the regulations of the Office of Price Administration and advised Mr. Stark that they could not accept a higher price. Mr. Stark then proposed a partnership arrangement between the Beverly Roofing Company, Mildred P. Bronson, plaintiff's wife, and Janet L. Roles, wife of R. C. Roles. That arrangement was entered into on or about August 3, 1945. The Beverly Roofing Company, under the terms of the agreement, was to manage and operate the partnership, furnish its capital and neither Mrs. Bronson nor Mrs. Roles were to have any personal liability as to the partnership's operations conducted by the Beverly Roofing Company. Mrs. Bronson and Mrs. Roles were to receive 65% of the profits of the partnership for 1945 and 1946 and were to receive 50% of the profits thereafter. Mrs. Bronson was paid, under this arrangement, in 1945 the sum of \$1,956.86 and she was paid in 1946 the sum of \$6,209.41, all of which amounts were taxed to plaintiff and the income tax paid thereon by Mrs. Bronson was refunded.

## 12.

Finds that the Ashbaugh Wood Shingles and Shakes was organized to permit plaintiff and R. C.

Roles to avoid OPA regulations. Their wives were made nominal partners in this enterprise only because it was obviously illegal for them to have done so. Plaintiff was the real beneficiary of this arrangement and plaintiff, not his wife, had domination and control over the income allocated to her. The income received by Mrs. Bronson from Ashbaugh Wood Shingles and Shakes was merely an assignment of income by the plaintiff to his wife.

13.

Plaintiff's wife made no contribution of capital or services to the Ashbaugh Wood Shingles and Shakes partnership nor did she in any way contribute to the production of the income of Ashbaugh Wood Shingles and Shakes. The aforementioned amounts received from that source and taxed to plaintiff were paid to her solely because the Warrenton Shingle Company, owned and operated by plaintiff and R. C. Roles, was, under the circumstances, willing to and did ship a substantial part of its output of shingles and shakes to the Beverly Roofing Company.

Conclusions of Law

The Court concludes as follows:

1.

Plaintiff has failed to sustain the burden of proof on the issue that he and his wife, Mildred P. Bronson, were bona fide partners in the Parkdale Lumber Company.

2.

The Commissioner of Internal Revenue properly taxed to the plaintiff one-half of the income from the Parkdale Lumber Company for the taxable years here involved.

3.

The amounts of money paid to Mildred P. Bronson during the taxable years here involved by the Ashbaugh Wood Shingles and Shakes represented income of the plaintiff, assigned by plaintiff to his wife, Mildred P. Bronson. Such amounts were properly taxed to plaintiff.

/s/ GUS J. SOLOMON,

United States District Judge.

Dated: 17th day of November, 1950.

[Endorsed]: Filed November 17, 1950.

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[Title of District Court and Cause.]

OBJECTIONS TO FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

Comes now plaintiff and objects to defendants' proposed findings of facts and conclusions of law as follows:

I.

Objects to proposed finding of facts numbered 2 and 3 on the ground and for the reason that there is no evidence to support said finding, but that the sole and only evidence concerning these findings are to the contrary.

## II.

Objects to proposed finding of fact numbered 4 on the ground and for the reason that the same is not a fact but a conclusion.

## III.

Objects to proposed finding of fact numbered 5 on the ground and for the reason that the same is contrary to the evidence.

## IV.

Objects to proposed finding of facts numbered 6 and 7, on the ground and for the reason that the same is contrary to the evidence, and is a conclusion.

## V.

Objects to proposed finding of fact numbered 8 on the ground and for the reason that the same is too broad and indefinite to be a fact and is therefore a conclusion.

## VI.

Objects to proposed finding of fact numbered 9 on the ground and for the reason that the same is contrary to the evidence and contains a conclusion.

## VII.

Objects to proposed finding of fact numbered 10 on the ground and for the reason that the same is contrary to the evidence and contains a conclusion and is a repetition of a previously proposed finding.



VIII.

Objects to proposed finding of fact numbered 11 on the ground and for the reason that the same is in part is not supported by the evidence.

IX.

Objects to proposed finding of fact numbered 12 on the ground and for reason that the same is not supported by the evidence and is a conclusion and has no application in part to the question of taxation.

And plaintiff objects to defendants' proposed conclusions of law and each of them, in that they are contrary to the law and the facts as applied thereto.

BOYD, FERRIS & ERWIN,  
Of Attorneys for Plaintiff.

State of Oregon,  
County of Multnomah—ss.

Due service of the within Objections is hereby accepted in Multnomah County, Oregon, this 20th day of October, 1950, by receiving a copy thereof, duly certified to as such by Warde H. Erwin, of attorneys for Plaintiff.

/s/ VICTOR E. HARR,  
Of Attorneys for Defendants.

[Endorsed]: Filed November 17, 1950.

[Title of District Court and Cause.]

## ORDER

November 17, 1950

Defendant appearing by Mr. James Garland, of counsel, and the plaintiff not appearing.

It is Ordered that the motion of the plaintiff for a new trial be, and is hereby, denied, and that plaintiff's objections to the proposed findings of fact and conclusions of law be, and are hereby, overruled.

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In the United States District Court  
For the District of Oregon

No. Civil 5299

CHARLES D. BRONSON, JR.,

Plaintiff,

vs.

HUGH EARLE, Collector of Internal Revenue for  
the District of Oregon, and the United States  
of America,

Defendants.

## JUDGMENT

This cause came on for trial before the above-entitled court, without a jury, on July 11, 1950, and on order of the Court, was continued to July 15, 1950, for oral argument thereon, and the Court having heard oral argument and having taken the matter under advisement, and having now entered



herein Findings of Fact and Conclusions of Law in favor of defendants, and being advised in the premises, it is hereby

Ordered, Adjudged and Decreed that plaintiff take nothing and that the above action be, and it is hereby, dismissed on the merits, and it is further ordered that neither party may recover costs herein.

Dated at Portland, Oregon, this 17th day of November, 1950.

/s/ GUS J. SOLOMON,  
District Judge.

[Endorsed]: Filed November 17, 1950.

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[Title of District Court and Cause.]

### NOTICE OF APPEAL

To: Hugh Earle and the United States of America, defendants, and to Henry L. Hess, Victor E. Harr, their attorneys:

You and each of you will take notice that plaintiff, Charles D. Bronson, does hereby appeal to the United States Court of Appeals, for the ninth Circuit from that certain judgment, findings and conclusions entered in the above-entitled case on the 17th day of November, 1950, and each and every part and the whole thereof.

BOYD, FERRIS & ERWIN,

/s/ WARDE H. ERWIN,  
Of Attorneys for Plaintiff.

[Endorsed]: Filed January 12, 1951.

[Title of District Court and Cause.]

### DOCKET ENTRIES

1950

Mar. 6—Filed complaint.

Mar. 6—Issued summons—to marshal.

Mar. 14—Filed summons with marshal's returns.

May 2—Filed answer of Hugh Earle and U. S.

May 9—Entered order setting for trial on May  
31, 1950. McC.

May 12—Entered order cancelling trial date. McC.

May 15—Entered order setting for trial on Sept.  
19, 1950. McC.

June 20—Entered order cancelling trial date of  
Sept. 19. McC.

June 20—Entered order setting for pre-trial July  
10 and trial July 11, 1950. Fee.

June 27—Filed stipulation to take deposition of  
witness.

June 27—Filed notice for leave to take deposition.

July 10—Filed deposition of Morgan S. Stark.

July 11—Filed and entered pre-trial order. Fee.

July 11—Record of trial before court and order  
continuing to July 15, 1950, 10 a.m. for  
oral argument. Sol.

July 11—Filed Exhibits 1 to 129 (as listed in pre-  
trial order).

1950

- July 15—Record of argument on the merits and order taking under advisement. Sol.
- Aug. 4—Record of oral opinion (Deft. to prepare findings and conclusions and judgment). Sol.
- Nov. 17—Filed objections to defendants proposed findings of fact and conclusions of law.
- Nov. 17—Filed motion for a new trial and for withholding entry of judgment.
- Nov. 17—Entered order denying motion for a new trial and for withholding entry of judgment. Sol.
- Nov. 17—Entered order overruling objections to proposed findings and conclusions. Sol.
- Nov. 17—Filed and entered Findings of Fact and Conclusions of Law. Sol.
- Nov. 17—Filed and entered judgment. Sol.
- Dec. 12—Filed transcript of proceedings dated July 11, 1950.

1951

- Jan. 12—Filed notice of appeal by plntf. Copy to U. S. attorney.
- Jan. 12—Filed bond on appeal.
- Jan. 15—Filed designation of contents of record and points on appeal.
- Jan. 17—Filed motion for order for clerk to send exhibits.
- Jan. 17—Filed and entered order to send exhibits. Sol.

In the District Court of the United States  
For the District of Oregon  
Civil No. 5458

CHARLES D. BRONSON,

Plaintiff,

vs.

HUGH EARLE, Collector of Internal Revenue,  
and the United States of America,

Defendants.

July 11, 1950

Before: Honorable Gus J. Solomon,  
Judge.

Appearances:

BOYD, FERRIS & ERWIN, by  
WARDE H. ERWIN,  
Attorneys for the Plaintiff.

JAMES P. GARLAND,  
Special Assistant Attorney General, and  
THOS. R. WINTER,  
Special Assistant Attorney General,  
Attorneys for the Defendants.

TRANSCRIPT OF PROCEEDINGS

The Court: In the case of Charles D. Bronson  
versus Hugh Earle, Collector of Internal Revenue,  
and the United States of America, are the parties  
ready?

Mr. Erwin: Ready.

Mr. Garland: Ready.

The Court: You may proceed. I read the pre-trial order.

Mr. Garland: Before we start, may it please the Court, we would like to have the witnesses excluded. We think this is the type of case that indicates the propriety of that request.

The Court: Then we are going to have to change courtrooms, because we have no place.

Mr. Garland: In that event we will withdraw it, because it isn't important enough.

The Court: Are the exhibits marked already?

Mr. Erwin: They are marked. It doesn't look as if they are in order, and I hope the Court will bear with me.

The Court: That is all right.

Is there any objection to the exhibits?

Mr. Erwin: Your Honor, the exhibits were admitted for identification purposes, and the only objections reserved are those as to incompetency, immateriality, and irrelevancy to the time of trial.

Mr. Garland: We think that many of them have very little weight. However, we are going to raise no objection. We will [2\*] raise no objection to the admissibility of any of them.

The Court: All right. All the exhibits are admitted. We will save some time on that. Either side may refer to any exhibit, and I will be the one to determine the weight and the relevancy.

Mr. Erwin: Very well.

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\* Page numbering stamped at top of page of original Reporter's Transcript.

(Pre-trial exhibits 1 to 129, inclusive, identified and described in the pre-trial herein, were thereupon admitted in evidence as Exhibits 1 to 129, inclusive.)

### CHARLES D. BRONSON

was thereupon produced as a witness in his own behalf, and, having been first duly sworn, testified as follows:

#### Direct Examination

By Mr. Erwin:

Q. Mr. Bronson, you are the plaintiff in this case against the Collector of Internal Revenue and the United States. Is that correct? A. Yes.

Q. Mr. Bronson, let me ask you when and where you were married. I don't care where, but when?

A. In Vancouver in 1933.

Q. In 1933. Were you at that time a resident of Vancouver, Washington? A. Yes.

Q. And for how long did you remain a resident of Vancouver? A. Until 1935.

Q. And were you engaged in any occupation in Washington? [3]

A. Yes. I had a service station, worked for Standard Stations, and then had a service station of my own.

Q. And that was during the period that you lived there with your wife? A. Yes.

Q. Did you maintain at that time any bank account in Vancouver?



(Testimony of Charles D. Bronson.)

A. I maintained a bank account for the service station only.

Q. And was that in your name or joint names or how was that carried?

A. I don't just remember, but it was just exclusively for the service station. It might have been labeled "Gilmore Oil Company Service Station" or something like that. I don't remember.

Q. It was not a family or personal account?

A. No.

Q. Did you have any other bank accounts at that time?

A. Well, my personal account was kept with my father in a bank in Portland.

Q. In the bank at Portland. And what bank was that?

A. The United States National.

Q. Were your earnings from your enterprise in Vancouver deposited in that account with your father?

A. Yes.

Q. And your personal withdrawals were made from that account?

A. Yes.

Q. Now, when you left Vancouver in 1935, where did you go? [4]

A. Warrenton, Oregon.

Q. And will you tell the Court for what purpose you went to Warrenton?

A. Well, we went down there to start construction on a shingle mill.

Q. And did you form a concern at that time for the operation of that mill?

A. We formed a corporation, yes.

Q. And what was the name of that corporation?

(Testimony of Charles D. Bronson.)

A. Warrenton Shingle Company.

Q. And who were the original subscribers to stock of that corporation?

A. Mr. Roles and myself and my father.

Q. And your father's name?

A. Charles D. Bronson.

Q. And you are Charles D. Bronson, Jr.?

A. I am Jr., yes.

Q. Do you recall what the original stock subscription by yourself was to that concern?

A. Well, I believe it was \$3,400.

Q. \$3,400. At the risk of having my question objected to, I am going to ask if the original stock subscription could have been \$4,400.

The Court: What was it? [5]

Mr. Erwin: \$4,400, but ten shares were signed back according to the book, and I think the record will speak for itself.

Q. So eventually you did subscribe to \$3,400?

A. That is what I meant—eventually I did end up that way, I think.

Q. Then did Mr. Roles subscribe to stock at that time?

A. Well, yes. He subscribed for stock, but it was—I haven't refreshed my memory on this thing enough to know just how that was handled.

Q. Let me ask you this: Did he pay for any stock at that time? Did Mr. Roles pay for any stock at that time? A. No.



(Testimony of Charles D. Bronson.)

Q. The capital contribution was your own stock subscription? A. Yes.

Q. And where did the money come from to purchase that stock interest in the Warrenton Shingle Company?

A. Well, it was my money that I had at the time when we moved down there.

Q. And would you recall what account that was taken from?

A. Well, there was only one account that it could be taken from, from our account in the bank in Portland, United States National Bank in Portland.

Q. That is the account with yourself and father?

A. A small amount could have come from this service station that we might have had for working capital that we closed out [6] and used for that purpose, but, so far as I can remember—

Mr. Garland: If the Court please, we object. The answer has been made, but we will object to any other question on where it may have come from. It is a matter of speculation, and I believe the answer should be stricken.

Mr. Erwin: We have no objection to withdrawing that last answer—I mean the one that followed.

Q. Now, then, when you started the Warrenton Shingle Company at Warrenton, Oregon, was that an existing mill that you purchased down there?

A. No. We started building from the bare ground up.

Q. You constructed the mill? A. Yes.

(Testimony of Charles D. Bronson.)

Q. Did you purchase machinery for its operation?      A. Yes.

Q. And was there any additional capital other than the \$3,400 put into that as far as you know?

A. You mean right at the beginning?

Q. Well, at any time at the early part of the corporation?

A. Yes. We didn't have quite enough to finance, so my brother joined us for a short while, and I believe he purchased 20 shares, if I remember correctly.

Q. How long was that stock held by him?

A. Well, I don't believe he was down there over a year.

Q. Who repurchased the stock from him?

A. Well, I think I did at the time. [7]

Q. What is your and Mr. Roles' respective stock interest now in the corporation?

A. We each have an equal number of stock now at the present time.

Q. State whether or not that was the original intention when you formed the corporation.

A. Yes. Mr. Roles and myself had signed an agreement that at such time as he was able—I believe there was a time limitation—that he had the right to buy a half interest.

Mr. Winter: The agreement, your Honor, is the best evidence.

Mr. Erwin: Unless it is contained in here, your Honor. I haven't checked. I think in any event he would be entitled to say——

(Testimony of Charles D. Bronson.)

The Court: Before you go ahead, let me say this: Do you intend to introduce anything in evidence, any document that hasn't been marked as a pre-trial exhibit?

Mr. Erwin: It is not our intention at this time, your Honor. We have no reason to believe there will be.

The Court: Well, I want to call attention to a rule of this court that no document may be introduced unless it is marked as a pre-trial exhibit. However, in this particular instance, because you may not have known of that rule, as far as this witness is concerned, if you want to produce the exhibit, the agreement, I think that will be all right.

Is there any objection? [8]

Mr. Garland: No objection at all.

The Court: No objection to it. And do you have a copy?

Mr. Erwin: I think there is a copy available.

The Court: All right. When it is available, it may be admitted.

Mr. Erwin: I think we will be satisfied, your Honor, with his answer that their stock interests now are equal, in any event. I don't believe it is too important.

The Court: We will see if there is any issue.

Mr. Garland: We will agree that is a fact without any further proof.

The Court: All right. It has been stipulated that the stock interest of Mr. Roles and the plaintiff are identical in the Warrenton Shingle Company.

(Testimony of Charles D. Bronson.)

Mr. Garland: Were they identical during the taxable year?

Mr. Erwin: I will ask that question.

Q. Were your interests identical during the years 1944, '5 and '6? A. Yes.

Q. Now, where did you live when you moved from Vancouver, Washington, to Warrenton?

A. I don't understand. Where did I live?

Q. I mean did you live directly in the City of Warrenton near the mill or some place else?

A. No; lived right in Warrenton. [9]

Q. And do you know whether Mr. and Mrs. Roles maintained their place of abode at that time?

A. Yes; right across the street.

Q. That was in Warrenton, Oregon, also?

A. Yes.

Q. And was that in fairly close proximity to the mill or some distance away?

A. No; it was about a half mile, I believe; as close as we could find places to live.

Q. Mrs. Roles was living there with Mr. Roles at that time? A. Yes.

Q. Was Mrs. Bronson living there with you at the time that you first went to Warrenton?

A. Not the first few months.

Q. And where was she living?

A. She stayed in Vancouver.

Q. And then she came down there how many months later, would you say?

A. Oh, three or four, I imagine.

(Testimony of Charles D. Bronson.)

Q. State, if you will, Mr. Bronson, to the Court what, if anything, Mrs. Roles did in behalf of the Corporation when it was first being formed.

Mr. Garland: We think that is immaterial. There is nothing involved here—no question of taxes involved in this case.

The Court: Well, it is just background they are asking for. [10] I assume the next thing he is going to try to bring out is what Mrs. Roles did. Let's go ahead.

Mr. Erwin: That's right.

A. When we first started, Mrs. Roles—we had a crew down there, and there was no place for them to stay or to eat or—if it hadn't been for her we wouldn't have had a crew. She had access to a fairly good-sized house, and fed the crew, the construction crew.

Q. Is that the crew that was building the mill?

A. Not the crew that was building the mill. That is what we had to have first, was a millwright crew.

Q. And did she perform any other work in behalf of the corporation?

A. Well, she was there at all times, and we were trying to decide what to do while we were constructing. It was not going too well. She was present when any discussions were made.

Q. You are referring just during the time you were constructing. Is that correct? A. Yes.

Q. Now, I meant at any time, Mr. Bronson, if you will just tell the Court.

A. Oh, at any time the mill was there?



(Testimony of Charles D. Bronson.)

Q. That's correct.

A. Oh, any time that I was gone and Mr. Roles was gone she was present in the office to take care of anything that came [11] in, and also she has—all the way through she has done invoicing.

Q. Now, when you say anything that happened to come in, what do you mean, in detail—sales, orders, big logs, or what did she do?

A. No, not hardly big logs, but orders, or if we happened—we shipped by boat and no one knows when the boat would come in. If I didn't happen to be there, there was a good deal of typing work to do in order to get the shingles out, manifests, invoices.

Q. Was there anyone else in the office other than Mrs. Roles?

A. No, not when—if I wasn't there, there was no one else available, no.

Q. Has she continued to do that work in behalf of Warrenton Shingle Company?      A. Yes.

Q. And Warrenton Shingle Company is still in existence and still operating. Is that correct?

A. Yes.

Q. And has operated continuously from the time of its inception in 1935?      A. Yes.

Q. Now, after Mrs. Bronson came down there, state whether or not she made any contributions of services in behalf of the Corporation. [12]

A. Well, when we were all there together, it was hardly necessary for her to do very much.

Q. So at that time she didn't contribute a great deal with respect to services?      A. No.

(Testimony of Charles D. Bronson.)

Q. As a matter of fact, did you have any children at that time?      A. Yes.

Q. And how many?

A. Two at that time when we first moved down there.

Q. And what were their ages at that time?

A. Well, one was just a few months old, and the other one was a couple of years old.

Q. And is that one reason Mrs. Bronson stayed in Vancouver rather than move down when you did?

A. Yes, that's right.

Q. Now, how long did the mill at Warrenton operate?      A. It burned in 1943.

Q. Has that mill operated from——

A. '36 to 1941.

Q. 1943?      A. '43, I mean.

Q. 1943. Then at any time did Warrenton Shingle Company acquire or purchase any other mills?      A. Yes; a mill at Toledo in 1941.

Q. That mill was purchased in 1941? [13]

A. Yes.

Q. And was that purchased with Warrenton Shingle Company funds or how was it purchased?

A. Yes.

Q. It was purchased with Warrenton Shingle Company funds?      A. Yes.

Q. Now, who was the operator of the mill at Toledo?

A. Mr. and Mrs. Roles moved to Toledo.

Q. Did they move their residence to Toledo?

(Testimony of Charles D. Bronson.)

A. Yes.

Q. And what discussions, if any, took place relative to the purchase of the Toledo mill between yourself, Mr. Roles and Mrs. Roles, and Mrs. Bronson?

A. Well, we had numerous conferences as to whether to go down there, and made many trips down there for quite awhile. In fact, I think we were six months to a year deciding to go down there, so I can't recall any detailed discussions, but there were many to find out whether we should do that or not.

Q. Where were these discussions held?

The Court: What is the point of this line of testimony as to whether or not they had discussions among themselves?

Mr. Erwin: Well, if the Court please, of course we will contend that Mr. and Mrs. Roles and Mrs. Bronson—that this was a closely-knit proposition from the very beginning, the whole transaction from the very start was, that they all [14] contributed services to the Warrenton Shingle Company, although the wives were not in fact stockholders in the Warrenton Shingle Company. Also, we contend that there was undoubtedly some unidentifiable, it is true, but community property which went in, on the part of Mrs. Bronson, which went into the Warrenton Shingle Company; and then we will later show that some of those profits—I mean the purchase of Parkdale Lumber Company—came from some of the assets of it.

Mr. Garland: I think it is questionable whether they can raise that question in any event as to the



(Testimony of Charles D. Bronson.)

community aspect. The claim for refund is not on the basis of community funds. That isn't alleged in the pleadings. It isn't suggested any place in the pleadings that the case is going to be defended on that ground.

The Court: Go ahead.

Mr. Erwin: Will you read my last question?

(Last question read.)

A. The discussions were held in Warrenton.

Q. Was there an office at the mill site in Warrenton? A. Yes, such as it was.

Q. Well, were the discussions held at home or at the mill site?

A. Probably at home. We had more room there.

Q. Did Mrs. Roles or Mrs Bronson at any time go to Toledo before you purchased the Toledo mill?

A. Yes, they both did. [15]

Q. Then Mr. and Mrs. Roles went to Toledo and he took over the active management of that. Is that correct, Mr. Bronson? A. That's right.

Q. And I assume you and Mrs. Bronson stayed at Warrenton and had the management of that?

A. Yes.

Q. Was Mr. Roles in continuous charge at all times after 1941 of the mill at Toledo?

A. Yes.

Q. At any time was he unable to perform his duties there?

A. Yes. He had a very bad accident. A log fell off a log deck on him, and he was out of commission for about, oh, around six months.

(Testimony of Charles D. Bronson.)

Q. Would you recall the approximate date of that?

A. No, I can't. I don't know the dates.

Q. Would it be shortly after the mill was purchased, or——

The Court: Do you know the date?

Mr. Erwin: I don't.

Mr. Roles: 4th day of December, 1941.

The Court: Are you Mr. Roles?

Mr. Roles: Yes.

The Court: Does that refresh your memory now?

A. Yes. I know it was a little while after the mill was started, but I am not very good on dates.

Q. (By Mr. Erwin): Who took charge of the Toledo mill while [16] Mr. Roles was laid up?

A. Mrs. Roles.

Mr. Garland: May it please the Court, it seems to me this is going far afield from anything pertinent. We don't know whether we are trying the Roles case or the Bronson case, from the testimony, and the services rendered by Mrs. Roles would have nothing——

The Court: I appreciate that, but I think we will get along faster. Cut this fairly short, but let's hear it.

Mr. Erwin: If perhaps I could ask a few leading questions, I could cut it short. I might say to the Court our understanding of the rules is that there is a question of identity, and we think the early history governs the identity.

(Testimony of Charles D. Bronson.)

The Court: If you are going into the question of identity, you had better not ask him leading questions.

Mr. Erwin: That, of course, is what we are endeavoring to show by this testimony.

Q. Did Mrs. Roles conduct the management of that business at all during all the period Mr. Roles was laid up?

A. Yes, there was no one else down there. I couldn't go, so she took charge of it.

Q. How far was Toledo from Warrenton?

A. Oh, between 150 and 175 miles.

Q. Now, Mr. Bronson, I believe you said that the Warrenton mill was destroyed by fire in 1943. Is that correct?

A. Yes. [17]

Q. When that mill burned down, state what, if any, discussions were had between yourself, Mr. Roles, Mrs. Roles, and Mrs. Bronson.

A. Well, Mr. and Mrs. Roles came from Toledo up to Warrenton that night of the fire, and we started right in from there as to whether—to decide as to whether to rebuild or find another site or just what to do, and we spent several weeks at that.

Mr. Erwin: Will you read the last answer?

(Last answer read.)

Q. (By Mr. Erwin): When you said you spent several weeks at that, Mr. Bronson, what do you mean by that—deciding, or what?

A. Well, made quite a few trips.

Q. And what were the purposes of the trips?

A. To look at new mill sites and also to deter-

(Testimony of Charles D. Bronson.)

mine the supply of timber on the river in case we should rebuild, and availability of machinery for rebuilding.

Q. Were you looking at that time for shingle mills or sawmills or what were you looking for?

A. For shingle mills.

Q. Shingle mills. Did Mrs. Roles or Mrs. Bronson accompany you on those trips? A. Yes.

Q. Were you able to locate a mill that you were interested in?

A. Well, we located lots of mills, but we weren't interested [18] in them, no.

Q. Did you make any offers to purchase any mills? A. No, not shingle mills, no.

Q. When did you hear of the—that is perhaps a little leading. I will ask it and see if there is an objection. When did you hear about the Parkdale mill?

A. Of course, I don't remember the exact date, but we had been doing business with A. W. Davis Supply and were acquainted with one of the members of the firm quite well, and he told us of this mill which was available at Parkdale.

Q. And that is the mill which is now operated as Parkdale Lumber Company? A. Yes.

The Court: What year was that—'43?

A. Yes; late in the year '43.

Q. (By Mr. Erwin): What did you do in relation to that after you heard about the mill?

A. We made a trip up there to look it over, just a one-day trip.

(Testimony of Charles D. Bronson.)

Q. And who was with you at that time?

A. Just Mr. Roles and myself made that trip.

Q. And did you immediately purchase the mill?  
Let me strike that question. Was there any discussion held prior to purchasing that mill, and with whom and what were the discussions?

A. Yes. We looked the situation over and came back and discussed it amongst the four of us. [19]

Q. And was there any decision made?

A. Well, we decided to buy it if there wasn't anything wrong with it that we hadn't found up until the time, up until that time.

Q. And what elements did you consider when you say there was nothing wrong with it? What elements did you consider?

A. Well, timber supply, and we didn't have time to look the mill over and see whether it was in running order; mostly timber, though.

Q. Did you subsequently make an investigation as to that prior to purchase?

A. Yes. Mr. Roles inquired at the United States Forest Service office here in Portland, and I went up there to talk to the local ranger, but didn't get too much satisfaction.

Q. You, in any event, decided to purchase that mill. Is that correct?           A. Yes.

Q. And who was the owner of the mill at that time?           A. Two brothers, Newell brothers.

Q. Would you recall their names?

A. Walter Newell and Frank Newell.



(Testimony of Charles D. Bronson.)

Q. What was the consideration for that purchase?      A. The total sum?

Q. Yes.      A. \$45,000. [20]

Q. How was it to be paid?      A. \$20,000——

Mr. Winter: You have the bill of sale and promissory note and everything in evidence.

Mr. Erwin: I guess we have.

Mr. Winter: That is the best evidence.

The Court: Is there any dispute about that price?

Mr. Erwin: No, I don't believe so.

Q. How was the purchase price of that mill paid for?

A. \$20,000 came from the account in Astoria, Warrenton Shingle Company account, and was paid to The Dalles Branch of the United States National as the initial payment.

Q. Now, I am going to refresh your memory a little bit. One to The Dalles Branch on Warrenton and one to Newell Brothers from the Bronson log account. Can you clarify as to what those are?

A. Well, I believe the first one was to be held by the U. S. National until we actually got possession, and the next one was to finance the down payment.

Q. What is the Bronson log account?

A. That was an account established for us at Warrenton, because we happened to be on the river and an open mart there, and cedar was scarce at that time, and when we had a chance to buy several rafts of cedar and we didn't have enough money

(Testimony of Charles D. Bronson.)

in the regular account, so we used this log account, which was [21] to purchase logs and put in storage.

Q. Did that represent personal funds or corporation funds?

A. No, it wasn't corporation funds. It was funds that we had accumulated there for that.

Q. I think I neglected to ask you, Mr. Bronson, was the Warrenton mill covered by insurance?

A. Yes, a small amount.

Q. And what was the amount of that?

A. \$5,000.

Q. And was that paid to Warrenton Shingle Company?      A. Yes.

Q. Did any of that go into the purchase of this mill?      A. Of the mill?

Q. At Parkdale.      A. Yes, I think so.

Q. Now, there was also a check from the Warrenton log fund of \$10,458.03 to The Dalles Branch of the United States National Bank. Will you tell us what that was for?

A. That was to close that account and move to the bank at The Dalles for our working capital in the sawmill.

Q. Now, the agreement between Newell Bros. for the purchase of that mill, was that in individual names or the name of the partnership, or who was it that purchased that mill?

A. No, it was in the name of Warrenton Shingle Company.

Q. And was that mill purchased from funds



(Testimony of Charles D. Bronson.)

which were made [22] available as a direct result of the fire?

A. Yes. We had no use for any working capital at Warrenton. The mill was gone, so—— (pausing)

Q. Now, then, when was the partnership known as Parkdale Lumber Company set up?

A. The exact date?

Q. Well, not the exact date—if you can remember the exact date.

A. I don't remember the exact date. It was around the first of the year of 1944.

Q. Will you state to the Court what the circumstances were surrounding the formation of the partnership, to the best of your recollection?

A. Well, to the best of my recollection, we didn't hardly know how to start our business up there because I felt it necessary for me to be—the sawmill being very hazardous, I felt it necessary for me to have some protection because I happened to be a partner with my two brothers and father in apartment houses, one here in Portland and one in Vancouver, and I felt that if some form of organization could be made whereby I could have a little protection against if something went wrong that wouldn't involve my father and my two brothers, and that was my reason for going into a partnership.

Q. Well, now, a partner in and of itself wouldn't provide that.

A. Well, a limited partnership, I would [23] say.

(Testimony of Charles D. Bronson.)

Q. And that is the reason this limited partnership was formed?      A. Yes.

Q. Was that discussed with any attorney?

A. Yes.

Q. And with whom was that discussed?

A. Mr. Carey Martin.

Q. How did you happen to go to Mr. Martin, Mr. Bronson?

The Court: I think a man can go to any lawyer he wants.

Mr. Erwin: I think it would be helpful to the Court in this particular case how he got there. Otherwise, I wouldn't ask it.

A. The reason for going there was because I wasn't acquainted with any other lawyer in particular, and I was referred there to establish the proper insurance. The industrial—to reject Industrial Accident Commission you have to do it before you start in business, so I went there to take out private insurance.

Q. You did not go to his office to take out private insurance?

A. Oh, no. He just made the necessary arrangements.

Q. As a matter of fact, that was the Northern Life Insurance?      A. Northern Life.

Q. And they referred you to Mr. Martin as their attorney. Is that correct?      A. Yes.

Q. And then you discussed with him your problems in setting up this business? [24]

A. Yes.

(Testimony of Charles D. Bronson.)

Q. What did you tell him about the business—what you wanted?

A. Well, I just told him——

Mr. Winter: If the Court please, we will object to that.

The Court: I think you are getting pretty far afield, what he told him.

Mr. Erwin: Well, of course, your Honor, I think, as a matter of fact, we could ask the question, “What did you intend to do?” and it would be perfectly proper under the circumstances, since he would be permitted to testify about his own intent. I would rather show it by the conversations, but under the present law we believe we are entitled to inquire into intent. Perhaps it would be self-serving, and I don’t know how impressive it would be to the Court.

The Court: I had that in mind.

Mr. Erwin: Let’s strike it. I will withdraw the question.

The Court: I don’t care. Ask the question if you want to.

Q. (By Mr. Erwin): I will ask you whether or not there was discussion also as to a corporation setup? A. Yes, we had thought of that.

Q. That form would have given you protection as far as your brothers and father were concerned?

A. That’s right.

Q. What was your purpose in not using a corporation setup?

(Testimony of Charles D. Bronson.)

A. We had a corporation at Warrenton, and it had never been [25] too satisfactory, so we—as a matter of fact, this limited partnership was rather new at the time and sounded like a good method of organization.

Q. Now, did anyone consult with Mr. Martin other than yourself, any of the other four partners, three partners, than just yourself? A. No.

Q. Can you state whether or not there were any discussions as to your conversations with Mr. Martin between the other partners?

A. Oh, yes. There was discussions as to whether we could form this limited partnership or a corporation, just how to start out.

Q. Were there any discussions as to formation of any other partnership?

A. Yes. We had at the same time started proceedings, what we thought was proceedings, to dissolve Warrenton Shingle and form a partnership there, too.

Q. Was anything done in that regard?

A. Yes, I believe part of the papers were prepared.

Q. And who prepared those?

A. Mr. Martin.

Q. And why did you intend to form a limited partnership of Warrenton Shingle Company?

A. Well, as I said before the corporation didn't work very good and there were just a few of us in it and we just thought [26] that they should be

(Testimony of Charles D. Bronson.)

both—all partnerships, you might say. There was just the four of us in the whole thing.

Q. Was there any other purpose to be served by including the wives in the partnership?

A. Any other purpose?

Q. Yes.

A. I suppose everybody thinks of saving taxes if he can.

Q. And was that matter discussed with Mr. Martin?

A. Oh, not particularly, no. We didn't know whether we were going to make any money or not.

Q. Now, when did you start operation, Mr. Bronson, at Parkdale Lumber Company?

A. About the first of March, 1944.

Q. And I believe the record shows that you caused your articles to be filed? A. Yes.

Q. I want to go back just a minute, Mr. Bronson. Did you and your wife purchase any property from the Newells or from either of the Newells?

A. Yes, we purchased the house where we live.

Q. That is the house where you live at present?

A. Yes.

Q. State what proximity that has to the mill site at Parkdale.

A. Oh, it is about a hundred feet from the mill.

Q. And from what source were the funds to purchase that taken? [27]

A. That came from our joint account.

Q. Now, Mr. Bronson, did you take out an in-

(Testimony of Charles D. Bronson.)

insurance policy of any kind to cover the operation at Parkdale?      A. Yes.

Q. Did you take out a liability policy——

Mr. Garland: We think that is immaterial, your Honor.

Mr. Erwin: The policy is in evidence and will speak for itself.

Mr. Garland: It isn't in evidence.

Mr. Erwin: It is in evidence. It has already been identified.

Mr. Garland: All right. However, I think any testimony in this regard to an insurance policy is immaterial and has little weight in this case.

The Court: The objection will be noted.

Q. (By Mr. Erwin): I take it you may answer the question: Did you take out an insurance policy when you started the operation?      A. Yes.

Q. Were there any changes made in that——

Mr. Winter: The instrument speaks for itself.

Mr. Erwin: I want to ask him why he made the changes.

Q. Were there changes made in the policy, and, if so, why?

A. Yes, there was a change made. At the beginning the insurance agent wasn't familiar with the operation, and as soon as it was noted he changed the name, put a rider on the policy [28] changing the name to the proper—the way it should be properly.

The Court: Just one second. It is about 11:30



(Testimony of Charles D. Bronson.)

now. I was wondering how many witnesses you have.

Mr. Erwin: We have just the four partners, your Honor, and Mr. Martin.

The Court: And you are about half through with Mr. Bronson or a little more than that?

Mr. Erwin: I would say a little more than that, as long as the documents are in evidence.

The Court: Have you your usual number of witnesses?

Mr. Garland: Yes, your Honor; exactly.

The Court: Do you want to finish today?

Mr. Erwin: Well, we prefer to if we can, your Honor.

The Court: Let's take about a five-minute recess now, and we will go through to 12:30, if that is O. K., and then we will come back at two o'clock, and we will go 'till 5:00 or 5:30, till we finish.

Mr. Erwin: That would be helpful, your Honor.

Mr. Garland: Very agreeable.

The Court: A five-minute recess.

(Recess.)

The Court: Do you want to put Carey Martin on the stand out of order?

Mr. Erwin: Yes, I would like to save some of his time.

(Witness withdrawn.) [29]



CAREY MARTIN

was thereupon produced as a witness in behalf of the plaintiff, and, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Erwin:

Q. Mr. Martin, will you state your occupation?

A. I am an attorney.

Q. And for how long have you been engaged in the practice of law?

A. I have been engaged in the practice of law since 1922, but only in Oregon since January, 1936.

Q. Since January, 1936? A. Yes.

Q. And you have practiced here in Portland since 1936? A. Yes.

Q. Mr. Martin, I will ask you whether or not you have had occasion to do any work for Mr. Charles Bronson or Mrs. Bronson or Mr. Roles or Mrs. Roles. A. I did.

Q. And will you state to the Court the approximate date that you did some work for them?

A. Well, I have no independent recollection of that date, but——

The Court: Exhibit No. 25, if you want to take a look at it.

Q. (By Mr. Erwin): Would you recall the year? [30]

A. Well, I would think that it would be along in the winter of '44, but in arriving at that date

(Testimony of Carey Martin.)

I am using what I understand to be the facts, and I haven't referred to——

Q. Well, in any event, will you tell the Court, if you will, Mr. Martin, what the nature of your work for the parties was?

A. Well, it was advice and discussion with them in connection with their business operations, and I drew up and filed, I think, a limited partnership for the Parkdale Lumber Company.

Q. Parkdale Lumber Company? A. Yes.

Q. And would you recall the approximate date that that was filed—I don't think that is important. The evidence will speak for itself in that respect. We will withdraw that. Did you do any work for Mr. and Mrs. Bronson other than for the Parkdale Lumber Company?

A. Well, yes. In connection with this, Parkdale Lumber Company was not formed at the time I originally started the work for them, and we discussed the Warrenton Shingle Company and the general activities of those two families.

Q. And what was the discussion, if you recall, as to the Warrenton Shingle Company?

A. Well, when I was first contacted in regard to all these matters—well, they told me that they had formerly had two operations, that the Roles run one of them and the Bronsons ran the other—they were in two different towns—and it was [31] all in the form of a corporation, as I remember it, the Warrenton Shingle Company, and that one of them had burned down some time or other—I think

(Testimony of Carey Martin.)

it was the activity that Mr. and Mrs. Roles were actively engaged in, I believe. I am not certain of that, but that is my memory of it, and that they were purchasing a sawmill some place; and I discussed with them what their setup was, business setup, organization, and they explained that to me and discussed how it would be advisable to operate the Parkdale Lumber Company, and also whether or not it would be advisable to terminate the corporate setup they were operating under at that time.

Q. Before I forget it, Mr. Martin, I want to ask you whether or not you have made a search of your files in regard to that?

A. Yes, I have. We moved—Mr. Dusenbery and Mr. Schwab and myself dissolved the partnership with Mr. Crum last May, and the 1st of December, 1949, Mr. Dusenbery and Mr. Schwab and myself moved to the twelfth floor and at that time made a separation of the files, and recently we have tried to find this file in both offices, and haven't been able to find the file in either office.

Q. Mr. Martin, I am going to hand you Plaintiff's Exhibits 39 and 40, perhaps for the purpose of refreshing your recollection and perhaps adding any additional facts that you may want to in regard to what took place in your dealings with Mr. Bronson and Mr. Roles. [32]

A. Well, Exhibit 39 is a letter that bears my signature as a member of the firm of Crum, Dusenbery & Martin, as it was at that time. I notice that

(Testimony of Carey Martin.)

the principal part of that letter is in regard to \$35.00 for trust agreements, employer-employee agreements. No doubt that would be confusing to everyone. It has nothing to do with this matter, but I could explain what that is all about.

Q. You might relate it just briefly.

A. That has to do with what is known as an automatic coverage program which some employers who reject the State Workmen's Compensation Act put into effect, covering their employees whereby accident insurance policies are obtained, individual accident insurance policies are obtained, covering each employee with the benefits payable, assigned and paid to, the employer, and the employee at the time he goes to work signs up an employer-employee agreement whereby after an accident the employee shall have the option and election to either accept those accident insurance benefits in full settlement of any claim for damages he might have against the employer, or the election, if he does not desire to do that, to bring suit for claim for damages, in which case the accident benefits go to the employer to be used as salvage. In putting that into effect, we draw trust agreements with the Portland Trust & Savings Bank or probably at that time it was the U. S. National Bank, providing for the death benefits in case of a death, and also [33] arrange for the employer-employee agreements. That has nothing to do with our representation of the Bronsons and the Roles in regard to this matter. That came through the insurance sales-

(Testimony of Carey Martin.)

man for the Northern Life, who always arranges for us to make these out in case they accept that type of coverage, and I notice this was about the time that was starting up, apparently, because apparently we originally had a charge of \$35.00 for doing that, and reduced it to \$25.00. It has nothing to do—that came through the insurance agent for the Northern Life, and has nothing to do with the matters I discussed here.

Q. Is there any reference in that letter to the dissolution of the partnership?

A. Well, the only thing that refers to this would be the second paragraph, in which it says that it would be satisfactory if the balance sheets and profit and loss statement be made up “about March 10th, as you suggest.” That suggests, as I recall it to my mind, that we were attempting to—we decided and planned to dissolve the Warrenton Shingle Company, as I remember it, as a corporation, and in doing that it was necessary to have some fixed date as of which it would be done. I don’t remember what that date was, but apparently I would understand that to mean that I had suggested a date when they would have that ready, and he had written back and he said it wouldn’t be ready until March 10th, and would that be satisfactory, and I said it would be. It might have been even a January 1st [34] change. I don’t know.

On the other exhibit, Exhibit No. 40, the first paragraph reminds me that these were mailed out for signature. I have been trying to remember



(Testimony of Carey Martin.)

whether they were signed in my office for signature, or not, and I couldn't remember; and the second paragraph in regard to the rejection of the Workmen's Compensation law is something that I am always conscious of in any case of a change of an organization, that they must reject before they start to do business; and the third paragraph in regard to this amount of \$1,782.26 with the explanation of how it is arrived at doesn't mean much to me. I have no independent recollection of how those figures were arrived at. I do remember that there was a father or a brother that had an interest or shares of stock in the Warrenton Shingle Company corporation, who had to be considered; and then there was also some ownership of some other property that had to be considered. I can remember those broad things, but I can't remember any of the details.

Q. Do you recall anything about the question of liability as to the brothers or fathers?

A. Yes, I do remember that, especially that Mr. Bronson, I believe it was, I think it was—one of the men, at least—I think it was Mr. Bronson—was concerned as to whether or not there could be a deficiency judgment on some mortgages given on some other property with somebody else—I believe it was [35] members of his family—that might ultimately interfere with the operation of the business.

Q. Do you recall whether or not that was one

(Testimony of Carey Martin.)

of the reasons for forming a limited partnership?

A. Yes; definitely.

Q. I call your attention to the fact that in this case Mrs. Bronson is a general partner and Mr. Bronson is a limited partner.

A. Yes. The limited partnership law had just gone into effect in July of 1943, and I remember the difficulty about these times of even getting a copy of it to read what it said, but we were interested as lawyers in the fact that the limited partnership law limited the liability of limited partners.

Q. I should like to hand you Plaintiff's Exhibit 108, and ask you whether you recall having received that letter from Mr. Bronson.

A. Well, I have no independent recollection of the letter, but, I mean, it would be my opinion I had received such a letter. It discusses the matters which we were discussing between ourselves, including the one that says, "I supposed you had passed out of the picture altogether." I would say that Mr. Bronson was not always in the office when I would expect him, and it was—I was never sure whether I was his attorney or not for a while. I wouldn't see him. But that is no criticism on him. I do—it also ties onto the fact that apparently this is the [36] same statement he is talking about in this letter here that I referred to that as yet hadn't appeared in March, and this is December, the part about the gift taxes that—I think I am usually very careful to tell everybody—apparently I told him that—the necessity of a gift tax return, although



(Testimony of Carey Martin.)

there is no gift tax payable if it is over the exclusion.

Mr. Erwin: You may inquire.

### Cross-Examination

By Mr. Garland:

Q. Mr. Martin, you have known Mr. Pattullo some time, have you not?

A. Yes, I have known him some time. I think I could determine about when I met him. Yes, I met him soon after I came to Portland.

Q. Mr. Pattullo referred to you in my presence, talking about the exhibits in this case, as a tax expert. Is that substantially so?

A. I have often said I am not a tax expert. I like to say that I do specialize somewhat on taxes.

Q. Federal tax matters?

A. Well, I wanted to, but I found that my experience in 13 years' practice in Iowa was mostly in the general practice, and when I came to Portland I hoped to build up a specialized practice. I always wanted to be a little more familiar with one line or the other, but it hasn't been my experience. I find I have [37] drifted into the insurance work, so that I would say 80 per cent of my time is spent representing insurance companies, which I also had had considerable experience with, and very little of my time is spent on tax work. I don't pretend to be as much of an expert on taxes as Mr. Pattullo.

(Testimony of Carey Martin.)

Q. But you do take tax cases, and a substantial part of your practice has to do with federal tax matters?

A. Oh, no; not a substantial part that has to do with federal tax matters. Perhaps I was known—I even furnished to Stevens-Ness a tax table free of charge that I drew up at length, and got considerable—legitimately, I hope—advertising out of that fact, but I didn't find much business on it. I haven't done as much as I would like to do.

Q. Mr. Bronson has testified, and you heard him testify, that the tax saving was a motive in the arrangements that he made?

Mr. Erwin: I would like to correct counsel. Mr. Martin wasn't here when Mr. Bronson testified.

Q. (By Mr. Garland): In regard to the tax saving aspect in the formation of these partnerships, what advice, Mr. Martin, if any, did you give to Mr. Bronson?

A. Well, I can't base my answer on Mr. Bronson's testimony, because I came in during recess.

Q. All right. You just tell us what you told Mr. Bronson with regard to the tax phase of the setting up of a family partnership.

A. Well, the first tax thing I think that we discussed was [38] in connection with the Warrenton Shingle mill, as to whether or not a corporation was the proper type of business setup taxwise, and also considering its liability-wise, and all the aspects as a lawyer would look at them, as to whether or not they should dissolve their corporation, and

(Testimony of Carey Martin.)

we discussed the amount of profits that they were making and what reasonable salaries would be for all the parties who were concerned there in the operation, and I discovered that up to the present time, or at that time, their profits had not been such as to pay them even up to what probably would be considered a reasonable salary, so that there was not a duplication of taxes at that time.

Q. What do you mean—"a duplication of taxes"?

A. Well, I mean whether there were profits of the corporation over and above the running expenses, so that the corporation would pay taxes on that, and then they would be contributed as dividend, and they would pay personal taxes on the dividend, is what I mean by "a duplication of taxes."

Q. Are you talking now about your advice to Mr. Bronson concerning the possibility of changing the Warrenton Shingle Company into a family partnership? Is that what you are talking about now?

A. Well, there was no discussion of a family partnership as such. The discussion was whether it would be advisable to dissolve the [39] corporation.

Q. And do what with the business?

A. And what—that was the discussion, what could be done; that an ordinary partnership would still leave all the partners liable, and that is the reason we discussed this contingent liability. We went

(Testimony of Carey Martin.)

into all those business things that you would discuss to decide whether or not it was a wise thing to do to dissolve the corporation.

Q. We are talking now about the Warrenton Shingle Company. Did you not know at the time you talked to Mr. Bronson that he had about \$4,400 invested in the Warrenton Shingle business and that if the business was changed, liquidated and put into a family partnership or any other partnership, that there would be liquidating dividends and that he would be required to pay income taxes on the liquidated dividends?

A. I have no recollection of any of the amounts, but we did discuss the proposition.

Q. That phase of the case?

A. That's right.

Q. Now, isn't it so that you advised him not to change the Warrenton Shingle Company, leave it as a corporation, because he would pay a large tax, federal tax, if he did so?

A. No. It is my memory that the Warrenton Shingle Company would also—was going to be changed over into a limited partnership, and my recollection of my file, if I could locate it, would be unsigned, uncompleted papers all drawn up [40] for the Warrenton Shingle Company dissolution.

Q. Why didn't it go through?

A. I didn't know, myself. As I suggested before, Mr. Bronson didn't come in very often. There was the complication in regard to the father that had a share in that, or one share, and time went so long

(Testimony of Carey Martin.)

by from when the original was going to get a statement on it that finally, to the best of my recollection, it just petered out, as a matter of fact.

Q. You drew the family partnership which formed the Parkdale Lumber Company. Isn't that so? You drew the agreement?

A. I drew the limited partnership agreement. I hesitate to say the "family." There were two families involved. I don't think of it as a family partnership, myself, but you probably do.

Q. Well, they are made up of members of the family. Isn't that so?

A. Two families, yes.

Q. Did you give Mr. Bronson or Mrs. Bronson advice as to the tax consequences or possible tax consequences of that arrangement?

A. Yes.

Q. And what did you advise them?

A. I advised them that in my opinion that they would be taxable according to—I don't even remember whether—according to their proportionate shares.

Q. And you advised them it would be recognized for income [41] tax purposes, in your opinion?

A. I assumed so, because, in my opinion, that was my opinion, and I assume I told them that.

Q. You talked, I believe, to a revenue agent by the name of Mr. Stewart about this case?

A. Not to my memory. Perhaps if you could give me some clue I will pull it back to my mind, but I don't remember talking to any revenue agent.



(Testimony of Carey Martin.)

Q. You don't remember talking to any revenue agent about this matter at all? A. No.

Q. Stewart or any other agent?

A. No, I don't, but I wouldn't say I didn't. Could you give me some clue?

Q. Do you remember talking to anybody connected with the government, an agent or anybody else, that Mrs. Bronson made no contributions of cash or services to this partnership?

A. I certainly don't remember of doing that, no. Who is Mr. Stewart? Is he a Seattle man?

Q. I don't know. Now, you spoke of a gift tax. What did you have reference to there?

A. A gift tax, a federal gift tax return.

Q. Gift tax on what?

A. Any gifts; if they made any gifts to their wives.

Q. What gifts did they tell you they made to their wives? [42]

A. I have no independent recollection on it at all, but as to who owned the property, or who—what activities, I have no independent recollection, but——

Q. Was a gift tax return filed?

A. I have no memory of that, but I don't think so. I don't remember of it.

Q. You testified that you looked into it, however, looked into the matter?

A. Well, the most that that letter indicates, which would be the most that I can testify to, was that if gifts are made to the wives you must give

(Testimony of Carey Martin.)

concern to gift tax. Now, as to whether or not they made a gift to the wife I don't know. I don't know. I have no memory of that.

Q. Did you advise them tax-wise with regard to the transfer of the Parkdale mill from—from the Warrenton Shingle Company to the new partnership?

A. I might have, although I had no memory until just today, I think, when I came up to the hall and Mr. Bronson told me that that was originally taken in the name of the Warrenton Shingle Company. I have no independent recollection on that.

Q. So you don't remember advising them that that might be considered for purposes of income tax as a distribution?      A. Well, I doubt it.

Q. In the form of a dividend?

A. You see, I am not such a good expert. I mean my recollection [43] now is that it wouldn't be, so I probably didn't advise them that. If the Warrenton Shingle Company merely takes a contract for the purpose for another organization—perhaps I am wrong. I am not an expert.

Q. Now, you testified one of the reasons Mr. Bronson desired to have a partnership for the Parkdale Lumber Company business was to limit his liability. Is that right?

A. That's right. The limited liability was seriously considered.

Q. Your answer is "Yes," is it not?

A. That's right.



(Testimony of Carey Martin.)

Q. All right. Now, did he tell you at that time that his wife had no assets?

A. No, I didn't understand his wife was on the mortgage. I understood he was on the mortgage.

Q. Don't you recall—you drew the instrument—that his wife was named in the instrument as a general partner?

A. Yes, but I thought the mortgage—that he was afraid of liability on it, as I understand it, as I remember it, although again I can't recall back—was that he, himself was liable. Now, I——

Q. What mortgage could that have had reference to that hasn't been mentioned?

A. Well, I testified to it a moment ago, and I can't give a great deal of facts on it. I do remember that he was [44] concerned about some mortgage on an apartment house or something of that sort, or a house, that he was on that might turn out later to be a deficiency judgment against him. He had signed some mortgage on some apartment house or building or something like that, which he was afraid wouldn't pay off the debt, and they would get a deficiency judgment against him.

Q. And take his interest in the partnership?

A. Well, to take his interest—this is before anything had been formed. We were discussing whether or not he should dissolve the corporation, and, of course, the creditor could only reach his stock in a corporation or if he is a limited partner a creditor could only reach his interest in the corporation, as I understand the law, but—and if he were a limited

(Testimony of Carey Martin.)

partner, a general partner, they could dissolve, could cease his interest and cause a dissolution of the whole partnership,\* which they can't do on a limited partnership, as I understand the law. I could be mistaken.

Q. As I understand the partnership agreement, Mr. Bronson was to contribute \$2,500 to the Parkdale business. Is that right?

A. I don't remember. I don't have any idea what those amounts were or who put them in or anything.

Q. Well, perhaps you can refresh your recollection by looking at the agreement, Mr. Martin.

A. Well, by looking at the agreement, it would appear to be a copy of the form that we used. It looks familiar, but I have [45] absolutely no recollection in regard to what this would say in property and in money. The law requires that all limited partnerships set out how much is contributed in money and in property separately, and I have no recollection whether or not that would say property—something in property or something in money; just none at all.

Q. The agreement provides, Mr. Martin—speaks for itself, of course, and provides that Mr. Bronson was to contribute \$2,500. Is that right?

A. No, I don't recall it. The only thing I am getting at—

Q. It makes no provision for contributions by Mrs. Bronson of any capital. Do you have any recollection of why it was done that way?

(Testimony of Carey Martin.)

A. My memory—I could check up, but my memory is that the limited partnership law only requires it on the part of limited partners. That would be indicated to me by the fact that they aren't all included.

Q. Then you knew at that time, at the formation of the partnership, that Warrenton Shingle Company turned over the Parkdale plant which had a cost to them of \$45,000?

A. Well, that figure sounds familiar to me, but unless it had been mentioned why I wouldn't have any memory of the amount.

Q. You have no recollection as to why the \$2,500 was put in there?

A. But in your question you speak about nothing the Warrenton [46] Shingle Company was turning over a contract. My recollection is that Mr. Bronson came to me before starting operations or in regard to how this thing should be done. They were going to start up these operations up there. "Well, now, at this time how should this be handled?" And he came to me with that in mind. And I knew, I can remember, that they had a contract for the purchase of it, but, as I remember, it hadn't gone into possession. Now, I don't remember that that contract was in the name of the Warrenton Shingle Company or doubt if I ever saw it, and have no recollection whose name it was taken in, but it was prior to them doing anything, or anything more than paying earnest money or something like that.

(Testimony of Carey Martin.)

Q. Did you have anything to do, Mr. Martin, with the Ashbaugh arrangement?

A. No. I was asked last night whether or not I had anything to do with an Ashbaugh arrangement.

Q. Do you know a man by the name of Morgan S. Stark?           A. No.

Mr. Garland: I think that is all.

### Redirect Examination

By Mr. Erwin:

Q. Mr. Martin, have you talked to Mr. Pattullo at any time about this case?

A. No, except Mr. Pattullo asked me a couple of time if I could find the file. I have looked for the file. I have never [47] talked to him about it outside of trying to find the file on it.

Q. How many times have we had conversations?

A. You dropped into the office last night about fifteen minutes of five, and you didn't have any papers with you or anything, and we talked about five minutes.

Mr. Garland: Oh, that is not material.

Mr. Erwin: He was asked how well acquainted he was with Mr. Pattullo and his friendship, and I think it is proper.

The Court: Do you have a partnership agreement? Is there a partnership agreement here?

Mr. Erwin: Yes; this and that one (indicating). This is the one filed with the Corporation Commissioner, and this filed with the Clerk.

(Testimony of Carey Martin.)

The Court: This is just a certificate.

The Witness: It contained the partnerships, and that is a copy filed with the Corporation Commissioner.

The Court: Yes, but this is just a certificate. There usually is an agreement setting forth their rights and duties.

Mr. Winter: That's it.

Mr. Erwin: I might ask Mr. Martin——

Q. Would there be any other agreement?

A. I think there would be ordinarily.

The Court: This is just a certificate.

Mr. Erwin: As far as I knew that is the only one in existence, but I may be wrong. [48]

The Witness: I would not be surprised if there wasn't in this case, because I would say again, without criticizing Mr. Bronson in this case, my relationship in this case was difficult about coming in and getting anything done, although ordinarily a partnership agreement is drawn. This was one of those things that jumped from here to there, and he informed me at that time that Mr. Erwin was his attorney when you were in the Service or something like that, and I got to thinking probably later on Mr. Erwin was handling his matters. He just didn't come in, and I am not surprised if it is lacking in this case.

#### Recross-Examination

By Mr. Garland:

Q. May I ask you this: Did you talk to Mrs. Bronson about the formation of the partnership?



(Testimony of Carey Martin.)

A. I don't believe I did, but I can't remember in regard to that. I can't remember whether Mr. and Mrs. Bronson were both in the office, but I would say that if so Mrs. Bronson wasn't in more than once, that any information he gave with regard to their operations and activities and all that came principally from Mr. Bronson.

Q. In other words, came entirely from Mr. Bronson? That is what you mean?

A. Unless Mrs. Bronson could have been there once.

Q. And you don't remember whether she was or not? [49] A. No, I don't.

Q. And if she was there she couldn't have been there more than once? A. I would think not.

Q. In other words, she took no active part, as far as you were concerned, in the arrangements. Is that right?

A. Well, personally with me, that is true, but I wouldn't want to say that she took no active part.

Q. In so far as you are concerned, so far as your business.

A. So far as contact with me, it was principally with Mr. Bronson, not over once with Mrs. Bronson, if at all.

Q. Let me ask you one more question, Mr. Martin. Now, you say you advised Mr. Bronson that, in your opinion, this family partnership arrangement, or the Parkdale Lumber Company partner-



(Testimony of Carey Martin.)

ship, would be recognized in so far as Mrs. Bronson's interest was concerned for tax purposes?

A. I did.

Q. You told him that before he signed the certificate? A. That's right.

Q. Made that clear to him? A. Yes.

Q. Did he ask you for that information, or did you volunteer it, or how did that come about?

A. Oh, I was representing him as an attorney, and we didn't have a system of cross-examination or me say, "Do you understand [50] this point now?" I was trying to advise him on that, and there were many other implications that come up in regard to the dissolution of that corporation which I considered which haven't been even discussed here, but there were many problems in regard to—if they made extraordinary profits, if the profits went up higher in the corporation, whether or not they were going to leave them in the business, probably, in which case, if they were left in the business and not distributed as dividends, it would be subject to the corporate tax, and then if they later sold it why their interest would only be subject to the limitations of capital assets. Those things were all discussed.

Q. And I understand your approach here, Mr. Martin—and if I am wrong, please correct me—that you had in mind whether certain assets should be taken from the Warrenton Shingle Company and put into a partnership. Is that right?

A. If I understand your question correctly, my

(Testimony of Carey Martin.)

principal concern was the whole general picture and their activities, the way they were operating and the way they hoped to operate, what was the best kind of a business arrangement for them. And, as a lawyer, I discussed and advised, and they decided.

Mr. Garland: All right. That is all.

Mr. Erwin: I think Mr. Garland may be confused, and, if so, I don't want to leave any confusion in the Court's mind. [51]

### Redirect Examination

By Mr. Erwin:

Q. As I understand, there were two separate entities, and one was the Parkdale Lumber Company and the other was the Warrenton Shingle Company?

A. That's right.

Q. And the Parkdale Lumber Company was set up as the limited partnership?

A. Yes, that's right.

Mr. Garland: There is no confusion in my mind.

### Recross-Examination

By Mr. Garland:

Q. You had three things to consider, did you not—whether or not you should change the Warrenton Company to a partnership—that is one—whether or not you should form a new partnership, and how much of the assets of the Warrenton you should put in the new partnership. Isn't that right?

A. Well, I don't think that—I think that we con-

(Testimony of Carey Martin.)

sidered more things than three. We had the facts as they were.

Q. All right. Now, what were they?

A. Well, the fact that they had a corporation over there, of which there were two separate—had always been two separate activities connected with it, one at Warrenton, I assume, since its name was Warrenton Shingle Company, and one some place else that burned, and that was—and at the time I first talked to [52] them—we didn't talk about the size or the amount, or I mean who owned the stock, or that. It wasn't even discussed; but they had this corporation, which had had two activities, of which Mr. and Mrs. Roles had been active in one of them and managed it and been there, and Mr. and Mrs. Bronson on the other. Now, they had both contracted to buy another different operation, and so he comes to me, as I understood it, to advise him in connection with what should be done here, taking all the factors into consideration; so I would think that we probably considered more than three. We may have considered a half a dozen different possibilities, and what would be wise and just, discussed it back and forth, as lawyers and clients do, and this is what was arrived at, although it is clear that—it was my memory of it that it was going to go ahead and form another limited partnership, and that the Warrenton Shingle Company would be dissolved. That was the last I remember of it.

Q. You advised them to do that also?

A. Yes, I surely did—I would say, yes, I did.

(Testimony of Carey Martin.)

Mr. Garland: I think that is all.

Mr. Erwin: I think that is all.

The Witness: Now, I want to make this explanation. I can't remember, and that is what I am trying to think—it is entirely possible when I got that final balance sheet which I had never seen—it is entirely possible that I didn't go through with the dissolution. Now, I can't say as to that. But I [53] do remember this: That a form, just exactly the limited partnership law, or certificate, was drawn up for the Warrenton Shingle Company. Now, as to why that didn't go through, I can't remember whether or not they just didn't get it done or when I saw the balance sheet. When I say that there was something about liquidated dividends or that, I can't remember.

Q. (By Mr. Garland): I don't want to tie you down to something you can't remember, but you have been thinking about this case here, and you have seen this letter, Plaintiff's Exhibit 100, September, 1944, by Mr. Bronson, and he says: "I remember you told me to remind you about the end of the year in regard to the gift tax necessary to include my wife as a partner. I was wondering if this should be taken care of at this time, and, if so, what was necessary to be done." Now, doesn't that stimulate your recollection?

A. Well, yes, it does, very much, but in sort of a different way. I found—and you asked me why it wasn't paid or was or was not paid, and if not, why. I don't have any recollection as to whether or

(Testimony of Carey Martin.)

not there were any gifts or not, but I do remember this, and I had several cases where clients would come in and talk about making gifts to their children, and ask me about the exclusions and exemptions and things like that; and they would go home and make the gift and never tell me anything about it when they should have made a return, so I would say as a matter of practice now the first thing when anybody talks [54] to me about anything having to do with gifts, I say to them, "Now, remember. I am talking about when taxes are due, but if you make gifts you have to make a return even though it is within the exemption."

Q. Your recollection is that there was a gift involved in this case which took a gift tax consideration, at least?

A. No, that wasn't my answer. My answer was I discussed gifts with him, but that wouldn't indicate whether or not, one way or the other, a gift had been made, because I am very careful to warn clients that if there is any gifts involved, as there might have been—I can't say whether there was or not—there must be a return.

Mr. Garland: I think that answers it.

I think that is all.

The Court: In view of the fact that it is now almost 12:25, I think we will adjourn with this witness until two o'clock this afternoon.

Mr. Garland: The Government has no questions concerning this witness.

The Court: He may be excused. That is what I



(Testimony of Carey Martin.)  
anticipated, that he would be called, because Mr. Martin has to get back to his office.

(Witness excused.)

(Noon recess.) [55]

The Court: Mr. Bronson, will you resume the stand?

### CHARLES D. BRONSON

a witness in his own behalf, thereupon resumed the stand, and, having been previously sworn, testified further as follows:

#### Direct Examination (Continued)

By Mr. Erwin:

Q. Mr. Bronson, when we interrupted your testimony, the last question we asked you was with reference to the first insurance policy on the partnership, which you changed? A. Yes.

Q. I will ask you, then, if subsequent policies were carried in proper form in the partnership?

A. Yes, all future policies were made out correctly.

Q. Now, rather than continue that line of questioning, I think it might be well, since Mr. Martin has testified, to go back and ask you for what reason the Warrenton Shingle Company was not dissolved and a limited partnership formed after having talked with Mr. Martin.

A. Well, there were several reasons. All of us



(Testimony of Charles D. Bronson.)

were quite busy. It was during the war, and we couldn't get back and forth too easily or quickly, and I had difficulty getting the proper statements in time, and it just went on and went on and more or less delayed. It is still pending, as far as I know, but we just didn't continue with it. [56]

Q. Did you receive from Mr. Martin, do you recall, the articles of limited partnership of the Warrenton partnership, the forms?

A. No, I didn't receive the forms.

Q. You don't recall having received them?

A. As I recall, I needed those financial statements to prepare his papers, and we just didn't get them to him. That was it.

Q. And your father held how many shares of stock in the Warrenton Shingle Company?

A. One.

Q. And was he to be included in the limited partnership that you intended to form there?

A. No.

Q. Who were to be the partners?

A. Mr. and Mrs. Roles and my wife and myself.

Q. What was the reason, if any, that you intended to form a limited partnership for Warrenton Shingle Company?

A. Well, as I mentioned before, the corporation—there were so few in it that it wasn't working very well. My father—as I understood it, we needed additional members there to hold that one share, and it wasn't necessary for him to be in it at all. He didn't have anything to do with it; and we were all work-

(Testimony of Charles D. Bronson.)

ing closely together, and we just thought that the partnership would be a better arrangement than the corporation.

Q. Was there any reason, as far as you were concerned, to include Mrs. Roles in that [57] partnership?

A. Well, yes. After that episode down at Toledo in which Mr. Roles was gravely injured, it was necessary to have somebody down there that was familiar with the business to operate it.

Q. Of course, I assume she could have operated the business just as well in corporate form as otherwise?

A. Well, I suppose, as far as actual operation was concerned. She wasn't in the corporation.

Q. No financial interest?

A. She owned no stock.

The Court: I think we are getting pretty far afield.

Mr. Garland: I haven't made objection, because I didn't want to take the time to do it. As we are sitting without a jury, I didn't think it was necessary.

Mr. Erwin: I was more or less trying to refresh my memory as to what Mr. Martin had testified to, your Honor, so I could cover the points. I have just kind of forgotten all of his testimony.

Q. Well, let's get back, then, to Parkdale Lumber Company. Would you recall when you started to operate, approximately, when you started to operate the mill at Parkdale? A. March, 1944.

(Testimony of Charles D. Bronson.)

Q. And your agreement, your partnership agreement, had been signed by that time? A. Yes.

Q. Prior to your actually starting [58] operation? A. Yes.

The Court: I should like to find out, where is the partnership agreement? Is this what you call the partnership agreement?

Mr. Erwin: Let me ask. As I say, I have no other agreement, as far as I know.

Q. Was there any other agreement than the certificate we have submitted here, as far as written agreement between the parties?

A. I am not familiar with what that is.

Q. The Judge will show it to you.

A. Yes, there must have been an agreement somewhere where we all actually signed it. This is type-written, here.

The Court: But I mean, this is a copy of an original. Was there any other type of agreement that indicated how much money was to be put into the partnership and how the profits were to be divided and what were the respective duties of the various partners?

A. No. This is a copy of a letter that we had.

Q. (By Mr. Erwin): There was never any other written agreement than the copy you have there?

A. Not that I know of.

Q. As far as you know?

A. Not that I know of.

Q. What was your agreement between yourselves as to the distribution of profits?

A. Just equal distribution. [59]

(Testimony of Charles D. Bronson.)

Q. What was your agreement with respect to the capital contributions?

A. They were to be equal.

Q. And that was reported on your tax returns the same way?

A. The way I understood it, it should have been reported that way, yes.

Q. Do you know whether it was or not?

A. Well, I am sure it was, yes.

Q. Well, now, as a matter of fact, we are into distributions. Maybe I could just ask you: How were distributions of earnings from the partnership made? A. Equal checks to all four of us.

Q. That continued from the inception, from the first distribution until the present time. Is that correct? A. Yes, that's right.

Q. And I neglected to ask you, Parkdale Lumber Company is operating at the present time under the same setup? A. That's right.

Q. And was there any variation from the policy of distributing equal checks? A. No.

Q. Four equal checks were distributed each time? A. Yes.

Q. Each distribution date? A. Yes. [60]

Q. How was it determined when distributions were to be made?

A. There was not just one—when there was enough money in the bank to make a distribution it was made. There was no specified amounts or time.

Q. I will ask you whether or not—I think that

(Testimony of Charles D. Bronson.)

is not necessary. The exhibits speak for themselves. We will withdraw that. Now, on these distributions, Mr. Bronson, from the proceeds of Parkdale Lumber Company, where were your checks from that deposited, in what bank?

A. The First National Bank in Hood River.

Q. And what type of an account was that?

A. Joint account.

Q. With whom? A. With my wife.

Q. And state whether or not you know of your own knowledge where Mrs. Bronson's checks were deposited.

Mr. Garland: I didn't hear that.

Q. (By Mr. Erwin): Whether you know of your own knowledge where Mrs. Bronson's checks were deposited.

A. Yes, she deposited there.

Q. And you were both permitted to check on that? A. No.

Q. Now, have you withdrawn from that account personal money for personal investments in your own name? A. Yes.

Q. Has your wife withdrawn from that account for personal [61] investments in her name?

A. Yes.

Q. Have you withdrawn from that account for investments in your joint names? A. Yes.

Q. Well, now, Mr. Bronson, I want to leave Parkdale for a minute and ask you concerning the Ashbaugh Shingles and Shakes agreement. Perhaps it might be faster if I just asked you to ex-



(Testimony of Charles D. Bronson.)

plain to the Court what you know of that agreement and how it came about.

A. Well, I don't know too much about it, except this Morgan Stark came up here with the object in mind of obtaining shingles for his business down there, and approached the wife with the idea of this partnership. In a few words, that is about all there is to it.

Q. You at that time were not at the Warrenton Shingle Company?           A. No.

Q. You were not a member of that partnership?

A. No.

Q. Had no right to govern its policy or control its sales policy or take any part——

Mr. Garland: We will object to what he had a right to do.

Mr. Erwin: That's correct, your Honor. I will withdraw it.

Q. You did not, in any event?

A. I did not have anything to do with it at all.

Mr. Erwin: I think that is all. You may inquire. [62]

### Cross-Examination

By Mr. Garland:

Q. Mr. Bronson, you seem to know very little about the Ashbaugh Shingles and Shakes. Is that the impression you wish to leave here?

A. That I——

Q. That you know very little about that partnership?



(Testimony of Charles D. Bronson.)

A. I am willing to tell you all I know.

Q. All right. Let's go into it, then. When did you first meet Mr. Morgan S. Stark?

A. I don't remember the date.

Q. Well, what year was it? '44, '45?

A. '45, I believe, '44.

Q. And Mr. Stark came up here from the Los Angeles area to see you as to whether the Warrenton Shingle Company would sell him shingles. Is that right?

A. Not me in particular.

Q. Well, you knew about it at the time, did you not?

A. Yes.

Q. He was concerned with Mr. Roles, and you knew that?

Mr. Erwin: Just a minute. He is nodding his head.

Q. (By Mr. Garland): Is your answer "Yes" to the last question?

The Witness: Could I have the question again?

(Last question read.)

A. Yes.

Q. (By Mr. Garland): And the Warrenton Shingle Company, through [63] you and Mr. Roles, told Mr. Stark he couldn't have any shingles. Isn't that right?

A. That's right.

Q. And Mr. Stark came back to see you and Mr. Roles and said that he was making arrangements, at least, to purchase the Ashbaugh Shingles and Shakes Company, one of your customers. Isn't that right?

A. Yes.

Q. And you had been sending shingles all the

(Testimony of Charles D. Bronson.)

while to Ashbaugh Shingles and Shakes Company.  
Is that correct?

A. I can't say definitely just where these shingles were going. Mr. Roles took care of it.

Q. Mr. Bronson, do you mean to say that you could not know that you had a customer in Los Angeles by the name of Ashbaugh Shingles and Shakes Company?

A. Oh, no. I didn't say that.

Q. Did you have a customer by that name?

A. Yes.

Q. So then Mr. Stark put a proposition up to you and to Mr. Roles, and that was this: that if you would send him shingles he would split the profit of the sale at that end with you—isn't that right—you and Mr. Roles?

A. Split the profit on what?

Q. On the sale of the shingles by him.

A. Not with us. [64]

Q. He didn't make you that proposition?

A. No.

Q. You were selling your shingles to Ashbaugh for the top OPA price, were you not?

A. Yes.

Q. And Mr. Stark didn't tell you that he would be willing to form a partnership with you and Mr. Roles? Did he tell you that?

A. Not that I can recall that he told us that he would form a partnership with us.

Q. Didn't he offer to form a partnership with you and Mr. Roles?      A. Did he offer to?

(Testimony of Charles D. Bronson.)

Q. Form a partnership with you and Mr. Roles to split the retail and the price of shingles, the price that he got in California for the shingles.

A. I don't know what kind of offers—I know we weren't interested in the partnership.

Q. Didn't he offer that? Can't you give me a "Yes" or "No" answer to that?

A. Not that I recall.

Q. And didn't you and Mr. Roles tell him, "No," that you were getting the top OPA price and that you couldn't take an extra amount of money under the table—to that effect?

A. We certainly told him that we couldn't take money under the table, yes. [65]

Q. You answered him in that fashion because, in effect, you would be getting more than the OPA price. Isn't that right? A. That's right.

Q. So then Mr. Stark, on behalf of the Beverly Roofing Company of which he was a partner, put a proposition up to you and Mr. Roles and said that he would form a partnership with your wives. Is that a fact?

A. I don't know as he came to us and made that proposition.

Q. You say he did, or did not? Which is it, Mr. Bronson?

A. I said I didn't remember of him coming to me and telling me that he had that proposition in mind.

Q. Is your answer that you don't remember, or that he did not? Which is it?

(Testimony of Charles D. Bronson.)

A. Well, I don't remember the details.

Q. Well, I am not asking the details, just the high spots. Now, isn't that the substance of what took place?

A. That is the substance of what took place, yes.

Q. So then that was agreeable with you and Mr. Roles for a partnership to be formed between the Beverly Roofing Company, who had then taken over Ashbaugh Shingles and Shakes, your former customers, and your wife and the wife of Mr. Roles?

A. Yes.

Q. All right. So that partnership was formed——

A. Yes.

Q. ——on the basis that they would receive, your wife and [66] Mr. Roles' wife would receive 60 per cent, 65 per cent, of the profit on the sale in California of the shingles that you sent to the Beverly Roofing Company. Isn't that right?

A. I don't know that it was 65 per cent.

Mr. Garland: Where is the exhibit?

Mr. Erwin: The exhibit speaks for itself.

Mr. Garland: I want to know whether he knew that at that time, knew about it.

Q. I am going to ask you now, when did you first see that agreement or a copy of it?

A. Well, when did I first see it?

Q. Yes.

A. I haven't the slightest idea when I first saw it.

Q. Before it was executed or afterwards?

A. Afterwards.

(Testimony of Charles D. Bronson.)

Q. After your wife executed it she showed it to you?

A. I don't know that she had the copy.

Q. Is your wife's signature on that paper?

A. I guess it is, yes.

Q. When did you first see that paper that you recall, which purports to be a partnership agreement?

A. I first saw it when he came to Parkdale to have my wife sign.

Q. So your wife signed that, and that is also executed by Mrs. Roles, is it not?

A. Yes. [67]

Q. And, so far as you know, it is duly executed by the Beverly Roofing Company? A. Yes.

Q. And Stark executed it for them as a partner?

A. Yes.

Q. And then the Warrenton Shingle Company started sending them shingles—isn't that right—started sending the Beverly Roofing Company shingles?

A. The Warrenton Shingle Company did, yes.

Q. And you were one of the proprietors and owned 50 per cent of the stock of that company at that time? A. Yes.

Q. And then——

Mr. Erwin: Mr. Garland, I should like to clarify which company he owned 50 per cent of the stock in.

Mr. Garland: The Warrenton Shingle Company.

Q. You didn't have any interest in the Beverly Roofing Company at all? A. No.

(Testimony of Charles D. Bronson.)

Q. Outside of this purported partnership agreement, your wife didn't have any interest in it either, the Beverly Roofing Company? A. No.

Q. So then your wife began to receive checks from the Beverly Roofing Company. Is that right? [68] A. Yes.

Q. And those were deposited in your joint account? A. Yes.

Q. Subject to your withdrawal?

A. And subject to her withdrawal, too.

Q. Now, what services did your wife perform on behalf of the Ashbaugh Shingles and Shakes partnership? What did she do for that partnership to earn that money?

A. Well, she didn't do very much that I know of.

Q. Did she do anything?

A. She took care of Mr. Stark's business at this end. He did a lot of phone calling to improve his supply down there. She took care of that.

Q. Did she go out and get many shingles other than to persuade you to send them to him, or the Warrenton Shingle Company?

A. No, she didn't do that.

Q. So the only services she performed were her powers of persuasion over you, her husband, to send shingles to the Beverly Roofing Company. Isn't that right, Mr. Bronson? A. Yes.

Q. Now, you and your wife were married in 1933. Where were you living at that time?



(Testimony of Charles D. Bronson.)

A. That was in error. We were married in '32.

Q. All right. Make it 1932, if you like. Where were you living at that time?

A. Vancouver, Washington. [69]

Q. Were you born and raised in Washington, the State of Washington? A. No.

Q. Where did you come from before you went there?

A. Dayton, Ohio; born in Dayton, Ohio.

Q. When did you move to Washington, the State of Washington?

A. Oh, when we were married in 1932.

Q. So you remained in Washington from 1932 through 1935? A. Yes.

Q. At that time did you consider yourself a resident of the State of Washington? A. Yes.

Q. Did you vote there? A. Yes.

Q. And own a home there? A. No.

Q. You had a service station. When did you acquire that, Mr. Bronson?

A. About 1933 or '4, along in there.

Q. Well, maybe we had better do it this way. What were you doing when you were married? What were you working at then? A. Nothing.

Q. All right. When did you first start to work after you were married?

A. Oh, three or four months later I acquired a job with [70] Standard Stations, Standard Oil Company.

Q. What were you making then, approximately?

A. Salary?

(Testimony of Charles D. Bronson.)

Q. Yes.

A. Oh, one hundred or one hundred and a quarter.

Q. It took that much to live on, didn't it?

A. Pretty much.

Q. All right. What did you do then after that?

A. Acquired this service station.

Q. So you worked for them up until you acquired the service station in 1934?

A. Approximately, yes.

Q. What money or capital did you have when you were married?

A. At the time I was married?

Q. Yes. Did you have any?

A. Yes, I had some.

Q. How much was it, approximately?

A. I haven't the slightest idea.

Q. Well, did you have \$5,000?

A. Oh, I suppose, approximately.

Q. Well, did you have \$10,000?

A. I don't think so.

Q. Well, then, somewhere between five and ten. Can you get it any closer than that, Mr. Bronson?

A. No, not just offhand, I can't. [71]

Q. Well, \$7,500? Did you have that much when you were married? Now, surely you remember the figures within a thousand.

A. I remember some figures, but then at that particular moment I don't remember.

Q. Would you say it was less than \$7,500?

A. I would say it was around \$10,000.

(Testimony of Charles D. Bronson.)

Q. Well, we finally got that. Now, where did you get—is that the capital that you used in connection with the Gilmore Oil Station?

A. No, we only needed \$500 to get into it.

Q. Gilmore Oil Station only needed \$500?

A. Yes.

Q. Where did you get that? Is that in addition to your \$10,000? A. What I had?

Q. Used, what you had to go into that. Well, how prosperous was the Gilmore Oil Station, Mr. Bronson? How much money did you make on that?

A. Oh, a hundred, two hundred dollars a month, something like that.

Q. Then it takes that much to live on, doesn't it, with two little children?

A. No, I wouldn't say it would at that time.

Q. Well, what did you save out of that amount?

A. I don't imagine we would spend over a hundred dollars a month to live.

Q. A hundred dollars a month to live. Now, did you use some [72] of your income from your property you had before you were married to live on?

A. No.

Q. So all it took you to live up there was a hundred dollars a month? A. Yes.

Q. Did you own your own house? A. No.

Q. Pay rent? A. Rent.

Q. How much rent did you pay?

A. \$25.00 or \$20.00.

Q. Now, then, you conducted that station for a year, about, about a year, wasn't it?

(Testimony of Charles D. Bronson.)

A. Somewhere around there; a little over, I think.

Q. A little over a year. So you would say you accumulated a little over, in a year's time there, about a thousand dollars. Is that what you mean to say—and you saved it?

A. I haven't any idea. I couldn't tell you.

Q. You don't know whether you saved anything or not. Is that right?

A. Out of the Gilmore Oil Company?

Q. Yes.

A. I don't know; no, I don't.

Q. Did you get what you paid for it, what you put in? A. Yes. [73]

Q. Did you get any more? A. No.

Q. Just got \$500. Is that right?

A. Approximately that. I got what was the inventory, and that is all.

Q. Now, what did you do with that money? Where did you put it—have it in the bank account up there? A. Yes.

Q. Did you leave it there, or did you draw it out eventually?

A. I had a bank account, joint account with my father, in Portland.

Q. And how much money did you put in that account? A. From where?

Q. From any source at any time.

A. I don't know.

Q. Just tell me how much money you put in the account with your father and the source of it.

(Testimony of Charles D. Bronson.)

A. Well, I had three or four thousand dollars in there. It varied up and down.

Q. Now, you are talking about the money you had before you were married, aren't you?

A. Not necessarily, no. Now, this money I had, I didn't mean to say I had actual cash. We had money invested in that apartment house over there.

Q. Were you getting income from it, the apartment house? [74]

A. Yes, we were getting income from it.

Q. And was that the money you used, the \$500 you used, to put in the station?

A. It could have—probably came from there, yes.

Q. Now, when did you meet Mr. Roles and under what circumstances?

A. Oh, it must have been six months before—let's see—1935—sometime in 1935 I became interested in doing something different and looking around and had suggested to me a shingle mill.

Q. Who had suggested to you, Mr. Bronson?

A. Mr. Bernard, I believe, who was in the wholesale lumber business in Vancouver.

Q. Did you have any prior experience in the lumber business? A. Yes.

Q. What was the nature of it?

A. Oh, I operated a sawmill.

Q. Where? A. At Estacada, Oregon.

Q. How long?

A. Well, when I was going to school, so I was just there during the summer months.

(Testimony of Charles D. Bronson.)

Q. Your father in the mill business?

A. No.

Q. Family in the mill business? A. No.

Q. So you decided to go into the lumber business in Oregon and then when did you contact Mr. Roles, or did he contact you? [75]

A. I just happened to drop by his mill and go in and talk to him for a second.

Q. And he had a mill where?

A. At Linnton.

Q. You went into his mill with the idea of buying into the mill?

A. No, I just wanted to talk to somebody that was familiar with the shingle business, and went in to talk to him about locations, and so forth.

Q. Well, when did you decide to go into business with Mr. Roles in the lumber business?

A. In the shingle business.

Q. Shingle business, yes.

A. Oh, it was just a few months before we went down to Warrenton.

Q. And you bought the mill then, the two of you?

A. Bought the mill?

Q. Bought the mill, did you?

A. Oh, no. We just started building from the ground up.

Q. And that was the Warrenton Shingle Company? A. Yes.

Q. And so you started to build a mill?

A. Yes.

Q. You and Mr. Roles? A. Yes. [76]



(Testimony of Charles D. Bronson.)

Q. And you put up the capital, as I understand it, of about \$4,400? A. \$4,400.

Q. Did Mr. Roles put up any money?

A. No.

Q. Did your wife put up any money?

A. No.

Q. Did Mrs. Roles? A. No.

Q. So you had the stock issued to you and Mr. Roles and eventually you each owned a half of it. Is that right? A. Yes.

Q. Did you ever declare any dividend?

A. No, didn't make enough money for any dividends.

Q. You took salaries. Is that it? A. Yes.

Q. And what money you made you put back in the business? A. Yes.

Q. But you did acquire considerable money over the period concerned, did you not? It flourished and prospered?

A. The Warrenton Shingle Company accumulated it.

Q. The Company did well after it was started, did it, after the war years? [77]

A. Oh, you are talking about war years now.

Q. And during the taxable years, now.

A. It did well then, but if we are back when it started, it didn't do well then.

Q. When did it start doing so well?

A. Well, 1943 or '4.

Q. About the time you met Mr. Martin?

A. Oh, no.

(Testimony of Charles D. Bronson.)

Q. Before that?           A. Before that.

Q. Did you talk to Mr. Martin about the fact that taxes were getting to be a serious matter as far as the Warrenton Shingle Company was concerned?

A. It wasn't serious then.

Q. When did it get to be a serious matter?

A. Oh, along in '43 or '44.

Q. When did you see and talk to Mr. Martin the first time as a client?

A. When we started to go into the Parkdale Lumber Company. That was my occasion for seeing him.

Q. Now, when did the Warrenton Shingle Company purchase the Parkdale plant?

A. In the fall of 1943.

Q. And they took the Parkdale plant in the name of the Warrenton Shingle Company at that time, didn't they? [78]

A. We made an earnest payment from the Warrenton Shingle Company, yes, for the Parkdale Lumber Company.

Q. Well, the Warrenton Shingle Company was the purchaser of the Parkdale plant. Isn't that right?

A. Yes, they—there wasn't any such thing as Parkdale Lumber Company then.

Q. But there was a sawmill, wasn't there, at Parkdale?

A. There was a sawmill at Parkdale.

Q. And the Warrenton Shingle Company purchased it?           A. Yes.

(Testimony of Charles D. Bronson.)

Q. Then, as I understand it, you saw Mr. Martin, an attorney here in Portland, about drawing you up a partnership agreement? A. Yes.

Q. To take the Parkdale plant out of the Warrenton Shingle Company and put it in a partnership. Is that right?

A. Well, that is substantially right. It isn't exactly——

Q. Now, Mr.——

The Court: Let him finish.

Mr. Garland: I'm sorry.

The Court: If that isn't exactly right, what is the correct status?

A. We used—because we hadn't formed the partnership up there, we wrote a check on the Warrenton Shingle Company to the bank in The Dalles as earnest money, and then after that we used money from this Bronson log account, which we had [79] established, to buy logs down there at Warrenton for the mill.

The Court: Whose money was that?

A. That belonged to Mr. Roles and myself, that we saved from our salary to establish this separate fund.

The Court: How big was that account?

A. Well, I don't remember the exact size of it, but it would have to be close to \$20,000 to do us any good in purchasing logs.

The Court: How much salary did you get from the Warrenton Shingle Company?

(Testimony of Charles D. Bronson.)

A. Well, I think we were getting along those times around \$500 a month.

The Court: For how long had you gotten that much money?

A. I just don't remember the length of time. I think it is listed, our salaries are listed.

Q. (By Mr. Garland): Now, you paid—when I say “you” I am talking about the Warrenton Shingle Company in which you owned 50 per cent of the stock at this time, and Mr. Roles the other half—now, you paid \$45,000 for the Parkdale plant?

A. We agreed to pay that much.

Q. Did you finally pay that much? A. Yes.

Q. And the money for the down payment was \$20,000—was that it—or ten?

A. The earnest money was ten, and then another ten before we took it over. [80]

Q. And how did you pay the balance of it?

A. The balance of the ten?

Q. No; the balance.

A. Of the \$45,000?

Q. Yes.

A. That came from profits of the Parkdale Lumber Company.

Q. All right. So that the money that went into the Parkdale plant and the assets that eventually got into the Parkdale partnership came from—\$20,000 of it came from Warrenton Shingle Company, either directly or by way of salary that was paid by you, accumulation of salary in the logging account. Is that correct?

(Testimony of Charles D. Bronson.)

A. Yes.

Q. And the balance of the purchase price, the Parkdale, all came from the earnings of the Parkdale, so-called partnership. Is that right?

A. Yes.

Q. Now, who managed and controlled and was proprietor of the Parkdale—now referring to the partnership? A. Who ran the Parkdale?

Q. Who ran that establishment?

A. My wife and myself.

Q. You say your wife and yourself. Now, what experience did she have in running a sawmill?

A. She didn't have any experience and neither did I have much. [81]

Q. You went into the Warrenton business, established Warrenton, about 1935. Isn't that right?

A. Yes.

Q. Now, the Parkdale was established when?

A. In 1944 we started operating.

Q. Then you had about ten years there, didn't you?

A. There is a lot of difference between a shingle mill and a sawmill.

Q. All right. You had experience in the lumber business, ten years' experience in the lumber business, after you left the service station—isn't that right—and some before. Is that correct?

A. Well, if you are going to make the shingle business the lumber business, that's correct, but they are not the same.

Q. Did you consider yourself, Mr. Bronson, an

(Testimony of Charles D. Bronson.)

entire novice when you took over Parkdale, a \$45,000 establishment?

A. Not an entire novice, but I didn't know too much about the lumber business.

Q. Did you think you and your wife were just about on a par as to ability to run the Parkdale?

A. Oh, I probably thought I knew a little more about it than she did.

Q. All right. Now, let's see what services did she render during the taxable years here to Parkdale? Now, what did she do? You tell me. [82]

A. Well, she was there at all times.

Q. Where?

A. We lived right on the mill site.

Q. Was she in the office?

A. No. We didn't have much of an office.

Q. You say it was on the mill site. That is because your home was on the mill site?

A. Yes.

Q. And she was within a few hundred feet of the mill?

A. Yes.

Q. She was in her home taking care of two children?

A. Yes.

Q. Now, what other contribution did she make to the earning of this fifty or sixty thousand dollars in question from Parkdale?

A. Well, at times—I was still interested in the mill at Toledo and I would have to leave. I left it with her. I had no foreman.

Q. What would she do? Would she buy lumber at that time?

A. Buy lumber?



(Testimony of Charles D. Bronson.)

Q. In your absence, would she buy lumber and sell shingles?

A. We were making lumber, not buying lumber.

Q. All right. Would she buy the logs, I had reference to.

A. No, you don't have to buy logs up in that country. You buy them once a year from the Forest Service, and that is the end of it.

Q. I am trying to find out what she did in your absence. [83]

Maybe you can tell me better than by my questions. What did she do in your absence?

A. I was trying to tell you, when we first started, our biggest trouble was manpower, and if I didn't happen to be there she was familiar with the local labor mart, and she was available to hunt down anybody that was necessary to fill a position temporarily, or all the time, as far as that goes.

Q. When you say "hunt down," what do you mean? She was the mother of two children. What did she do?

A. There were telephones there.

Q. She called on the telephone to see if she could get more help. Is that what you mean?

A. Yes.

Q. Took phone calls in your absence?

A. Yes.

Q. That's what you mean. Had she had any experience in the shingle mill business?

A. Only what she was exposed to while we lived at Warrenton.

(Testimony of Charles D. Bronson.)

Q. Nothing independent of that. Now, you were careful with your distributions from Parkdale all the time to draw identical checks—isn't that correct—you and Mrs. Bronson and Mr. Roles and Mrs. Roles? A. Yes.

Q. So that they were all just the same. What did you do that for in your case? [84]

A. What did I do?

Q. Why was that arrangement made in your case? Why didn't you just draw a check to you?

A. Well, I figured we were all equal partners, and the distribution was to be made equally.

Q. Was it because Mr. Mills told you to conduct it that way for tax purposes? A. Mr. Mills?

Q. Or Mr. Martin. A. No, I didn't.

Q. Now, it all got in the joint account, didn't it?

A. Yes.

Q. Some \$62,000 from February, 1945, through October, 1946—is that correct—was distributed—let me finish—was distributed to you and to Mrs. Bronson—that means the two of you in separate checks. Is that correct?

A. I don't know the amounts.

Q. Do you have anything at all in these exhibits to refresh your recollection?

A. Yes, the income tax return would tell how much.

Q. Have you any books here that would show how much distribution you and Mrs. Bronson received from the Parkdale during the taxable years?

A. Have I any books here?

(Testimony of Charles D. Bronson.)

Q. Books or records you can refresh your recollection from and [85] tell the Court how much you received, how much money, you and Mrs. Bronson, during this time here involved. I have a record here that it is approximately \$62,000. Is that approximately correct?

A. I think so, if you have that record.

Q. Maybe a little more than that. That at least figures up hurriedly. Now, the only account you maintained, either you or Mrs. Bronson, was a joint account during that period?

A. Yes.

Q. And what bank was that with, please?

A. The First National of Hood River.

Q. Now, you have testified that both you and Mrs. Bronson drew on that account for independent investments. Now, what percentage would you say that Mrs. Bronson drew out and put into her own independent investments?

A. She didn't draw out very much and put in her own independent investments.

Q. Mr. Bronson, isn't it true that she drew approximately 158 checks on that account during that period, and almost all of them for household expenses?

A. Yes.

Q. And that they were minor in comparison to the amount you drew out?

A. That they were what?

Q. And that you drew 217 checks from that account? [86]

Mr. Erwin: What were those figures again?

Mr. Garland: 217 checks.

(Testimony of Charles D. Bronson.)

Mr. Erwin: What was her figure?

Mr. Garland: 158, from our investigation.

Q. Now, the checks you drew in 1944—if this isn't correct, please tell me to the end I will get your "Yes" or "No" answer—\$1500 in a check, next one, twenty-eight fifty, \$2,850, \$1,500, \$2,850, and those checks were for the purchase—drawn by you. Is that correct?

A. I suppose they were.

Q. And they were for the purchase of bonds, government bonds, and for the purchase of a residence put in your joint names. Isn't that true?

A. I can't tell you what those checks were drawn for. That sounds right. I bought a residence, yes, and I bought some government bonds.

Q. Then you drew checks in 1944 on that joint account and 1945 and '6 to Harry Porter. Who is Harry Porter?

A. My wife's father.

Q. What were those checks for?

A. We were investing money in first mortgages that my wife's father took care of.

Q. And those first mortgages, Mr. Bronson, were put in your name, were they not?

A. Yes. [87]

Q. And for that period they amounted to one check here of \$2,450, \$3,800, \$4,000, \$2,150. Are those correct?

A. Sound about right.

Q. Then for the same period and including the period here involved you drew checks—is that correct—checks to yourself to E. M. Adams. Isn't that correct?

A. Yes.

(Testimony of Charles D. Bronson.)

Q. Who is he?

A. He is a stock broker here in town.

Q. And those were for securities, Mr. Bronson, put in your name. Isn't that so? A. Yes.

Q. And they were \$3,500, \$1,875, \$4,256.25, \$2,-156.25. Now, during the same period you drew certain checks of substantial size, at least one of them, to the Guaranty Trust Company. What was that for? A. Insurance.

Q. What kind of insurance?

A. Life insurance.

Q. On your life? A. On my life.

Q. \$6,900.25, \$566.99, \$566.99. That's correct, isn't it? A. Sounds correct.

Q. Then you drew in 1945 another check for \$33,750. You drew it in your name to the postmaster, and that was for bonds, [88] government bonds put in the joint name of you and Mildred Bronson, and that is your wife, Mildred Bronson?

A. Yes. How much money is that?

Q. \$3,750. A. I thought you said \$33,000.

Q. No, I meant \$3,750. Still talking about the same account, in 1945, here is \$10,000 check, payee unknown. Do you have any idea what that is?

A. A \$10,000 check drawn to payee unknown?

Q. You don't recall that. All right. Who is Ardel Lundberg? A. Ardel Lundberg?

Q. Ardel Lundberg. Is that correct? Landberg, maybe. Do you know anybody by that name?

A. No.

Q. Do you know anybody with a name that



(Testimony of Charles D. Bronson.)

sounds like that to whom you may have paid sizeable checks during 1945? For instance, one check is \$1,725, another one of \$10,669.

A. That might be Handel, Lundborg & Patton.

Q. Possibly. What is that?

A. That is for investments.

Q. Investments taken in your names, and checks you drew on the joint account. All right. We will go over those. A. \$1,725?

Q. \$1,725, \$10,669, \$10,470, \$12,800. Do those sound all right to you? [89] A. Yes.

Q. Then in 1946 you drew additional sums for war bonds, here—I mean government bonds—\$6,351.00. Does that check sound right to you?

A. I don't know. I suppose.

Q. All right. Who is Mr. B-o-e?

A. Mr. Boe is the postmaster for bonds, probably.

Q. Those were for government securities, too, weren't they? A. Yes.

Q. Taken in your name. \$5,000, 1946, another \$5,000. And who is T. W. N-o-r-d-b-y?

A. Nordby?

Q. Yes; T. W.

A. I don't know what that is for.

Q. \$1,280.

A. Oh, that is for purchase of a car.

Q. In your name? A. Yes.

Q. All right. Now, that is the only account you had during this period, either one of you, you and your wife? A. Yes.



(Testimony of Charles D. Bronson.)

Q. The only joint account you had?

A. Yes.

Q. No separate accounts. And I think you testified that into that account went all the money received by your wife from the [90] Ashbaugh Shingles and Shakes Company? A. Yes.

Q. You say you considered changing the Warrenton Shingle Company into a family partnership?

A. Into a partnership, yes.

Q. A partnership between your family and the Roles family? A. Yes.

Q. Including your respective wives?

A. Yes.

Q. And you just procrastinated on that proposition. Is that what you mean? You got the papers all drawn and you didn't go back and sign them?

A. I don't know as we had the papers drawn. They might have been drawn up, but we hadn't completed it, no.

Q. Well, were you advised if you made that arrangement there would be a liquidating dividend of some consequence and quite a large tax to pay, and you decided you wouldn't do it that way? Now, isn't that the reason you didn't do it that way?

A. No. All I can remember, it was quite complicated, and at that time we didn't feel we had the time or go to the trouble.

Q. Complicated from the tax point of view. Is that what you mean?

A. No, that is not what I mean. I didn't think about the tax point of view.

(Testimony of Charles D. Bronson.)

Q. Now, as I understand your testimony—and you correct me [91] if I am wrong—you say you were interested in forming a partnership of Parkdale Lumber Company for two reasons. One of them was you wanted to escape personal liability of some kind. Is that right? A. Yes.

Q. On this business?

A. No, not on that business.

Q. What business?

A. I was in partnership with my father and two brothers in an apartment house, and that was the reason for the corporation at Warrenton. These two, the sawmill or shingle business, is a very hazardous business, and I didn't think I wanted to jeopardize my two brothers and father with any such business risk as these two ventures.

Q. In other words, your point was this: You didn't want to have personal liability from Parkdale that might take some of your assets elsewhere. Is that it? A. Some of the assets?

Q. Some of your assets which you had invested with your father. A. Yes, that's right.

Q. You didn't want those touched?

A. That's right.

Q. In case the Parkdale didn't turn out as you figured it would? A. That's right.

Q. Now, is that the reason that you put your subscription to [92] this entire price at \$2,500 and this certificate was filed for state purposes?

A. I don't understand.

(Testimony of Charles D. Bronson.)

Q. That certificate that you have there that has been referred to here as a partnership agreement, and which appears to be a certificate that was filed, or declaration that was filed, of partnership intention. Refer to that exhibit. A. Yes.

Q. What is the number on top of it?

A. 25.

Q. That is Plaintiff's Exhibit 25. All right. Look at it on the second page and third page, and you will see your contribution there, \$2,500. You see where you contributed \$500 there in that certificate—is that correct—to the partnership enterprise?

The Court: It is on the top of page 2.

A. Oh, yes.

Q. (By Mr. Garland): And you say that was to avoid personal liability?

A. That was the intention.

Q. Beyond the amount of your contribution, which you say was \$2,500, whereas, as a matter of fact, you know that the contribution to that partnership which you and Mr. Roles made was of some \$20,000, at least the down payment on the Parkdale plant? A. Yes. [93]

Q. The Warrenton Shingle Company quit sending shingles to the Beverly Roofing Company. Is that true? A. Yes.

Q. And what caused that situation to occur?

A. Mr. Roles is in a much better position to answer the details on that than I am.

Q. Do you know?

(Testimony of Charles D. Bronson.)

A. I know that he owed us \$3,100 on a bought shipment of shingles that he apparently wouldn't pay, so we quit shipping to him.

Q. You collected your money for that?

A. The \$3,100?

Q. Yes.           A. No, he still owes it, part of it.

Q. You decided it would be more profitable to the Warrenton Shingle Company to send shingles back to Ashbaugh and establish your own distribution plant in the Los Angeles area—isn't that so—after the OPA ceiling?

A. If he had paid us, I believe we would still be shipping shingles.

Q. Even though the OPA ceiling was taken off?

A. Yes.

Q. That didn't influence you to set up your own distribution business down there, did it?

A. Didn't influence me, no. [94]

Mr. Garland: I think that is all, at the time, at least.

The Court: Go ahead.

### Redirect Examination

By Mr. Erwin:

Q. Mr. Bronson, just to clarify the record a little bit, Mr. Garland has been asking about shipments of shingles to Beverly Roofing Company. Did you ever ship shingles directly to Beverly Roofing Company?

A. I didn't know it by that name. I knew it by Ashbaugh Shingles and Shakes.

(Testimony of Charles D. Bronson.)

Mr. Garland: For the purpose of the record, I would like to clear that up. My question in that regard had to do with sending shipping letters to the Ashbaugh Shingles and Shakes Company, of which the Beverly Roofing Company was a partner. Is that correct?

Mr. Erwin: I just wanted to clear that up. If we stipulate those questions do apply, I think it would satisfy it.

Q. Now, Mr. Bronson, Mr. Garland has asked you with respect to the capital distributions from Warrenton Shingle Company, the \$10,000-note Parkdale Lumber Company purchase, or for the purchase of the mill at Parkdale. Were any of the proceeds of the insurance, any of the insurance proceeds, which you received as a result of the fire at Warrenton, did that go into the same transaction?

A. Yes, I imagine that was—well, that \$5,000—it would be [95] half of that amount.

Q. And state why it was that you took the title to the Newell Brothers mill in the name of Warrenton Shingle Company.

A. Well, because the Parkdale Lumber Company wasn't formed at the time.

Q. And the funds that were available for that purpose were in the name of Warrenton Shingle Company, or the logging fund. Is that correct?

A. Yes.

Q. In regard to one item which Mr. Garland mentioned, insurance of \$6,900.25,—I think that is

(Testimony of Charles D. Bronson.)

the figure, but some figure around that—who was the beneficiary on that policy?      A. My wife.

Q. Any contingent beneficiaries?

A. My children.

Q. Now, Mr. Bronson, in your deposits to your joint account, your personal joint account at the First National Bank at Hood River, did you have any other income than from Parkdale Lumber Company?      A. Yes.

Q. And what other income did you have?

A. Well, from the Warrenton Shingle Company and from this apartment.

Q. From the apartment in Portland?

A. And the one in Vancouver.

Q. And one in Vancouver; and you had independent income [96] besides that?      A. Yes.

Mr. Erwin: I think that is all.

#### Recross-Examination

By Mr. Garland:

Q. Mr. Bronson, what independent income did you deposit in this joint account during the taxable years here concerned other than from Warrenton Shingle Company, the Parkdale Lumber Company, and Ashbaugh Shingles and Shakes Company?

Mr. Erwin: We object to that.

Mr. Garland: I don't mean to infer any conclusion that he had that. What independent income of yours went in aside from those sources?

A. The income from these apartments.



(Testimony of Charles D. Bronson.)

Q. I know. How much, is what I want to know, approximately.

A. I think one of them about \$2,600 from that one, and maybe thirty-six from the other. I am just guessing as to the amount.

Mr. Garland: All right.

Mr. Erwin: The returns show that income.

Mr. Garland: They are in evidence?

Mr. Erwin: Yes.

The Court: Did the Parkdale Lumber Company ever pay back in money to the Warrenton Shingle Company?

A. Yes, the Parkdale Lumber Company paid it back once, but we got a little bit on the bad side at Parkdale, and then took it [97] back again.

The Court: How long ago was that?

A. That was last year.

Mr. Garland: May I inquire on that?

The Court: Surely.

Q. (By Mr. Garland): Was there any accounting between Parkdale and Warrenton?

A. Any accounting?

Q. Yes; any accounting as between these—what I mean to say, did Parkdale ever account to Warrenton for the initial investment?

A. No; I kept both the books up there.

Mr. Garland: That's all.

(Testimony of Charles D. Bronson.)

Redirect Examination

By Mr. Erwin:

Q. When you speak of Warrenton investments, there was only \$10,000 that came from the Warrenton account? A. Yes.

Q. And that was funds made available due to the fact you no longer needed that capital?

A. Yes.

Mr. Garland: \$10,000 came from your logging fund, which represented accumulation of salaries of you and Mr. Roles? A. Yes.

Q. (By Mr. Erwin): That money from the log account was your [98] personal funds?

A. Yes.

Mr. Erwin: That is all.

Mr. Garland: That is all.

(Witness excused.)

The Court: Would you like to put a witness on?

Mr. Garland: Yes; out of order. I didn't know I would need him.

The Court: I told Mr. Pattullo I was going to be a witness in a case, and it will take about a half hour, I understand.

Mr. Garland: This will take only five minutes.

The Court: Have you any objection to that?

Mr. Erwin: No. [99]

PARIS STEWART

was thereupon produced as a witness in behalf of the defendants, and, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Garland:

Q. Where do you reside, please, sir?

A. Portland, Oregon.

Q. How long have you resided here?

A. Since 1928, with an absence of about three years during the war period '40 to '44.

Q. Were you at one time a revenue agent?

A. Yes, sir.

Q. And when did you become an agent and when did you resign?

A. In 1940—I have to stop and think. I was a revenue agent in 1945—no, that's not right; in 1946. Resigned two and a half years ago.

Q. And what is your present occupation?

A. I am business manager of Lewis and Clark College.

Q. Now, when you were a revenue agent, did you investigate the case of Charles D. Bronson, Sr.?

A. Yes, sir.

Q. And what did you do in connection with that investigation?

A. Well, of course, I made an investigation of their books to determine whether a partnership existed, and during the investigation I contacted Mr. Al Boe, who is the postmaster at Parkdale, [100]

(Testimony of Paris Stewart.)

Oregon. He prepared the return, I believe, 1944—now, I am not too sure of the return; and when I spoke to him about the partnership elements in the case, he told me that——

Mr. Erwin: No, no, no. We will object to that.

The Court: Objection sustained.

Q. (By Mr. Garland): Did you talk to an attorney here by the name of Mr. Martin?

A. Yes, sir; Mr. Carey Martin, in his office.

Q. And did he give you—make any statements to you with respect to the partnership investment here and——

Mr. Erwin: The same objection, your Honor, and we want to add the additional ground, your Honor, that the privilege does not extend that far. If there were any statements made at that time there was no showing of the privilege of the client not consented to.

Mr. Garland: If your Honor please, we didn't expect to call this man, and he has lost his files.

Mr. Erwin: And he has also been dismissed.

Mr. Garland: He forgot his files and relied on faint memory. He testified he never talked to a revenue agent about this thing, and he made certain statements and commitments to the revenue agent, and it seems to me if he represented his client he made them on his client's behalf.

The Court: I don't think so, Mr. Garland. Let me ask,——

When did this conversation take place? [101]

A. Somewhere—I am not too sure of the month—around April, May, June, 1947. In that period

(Testimony of Paris Stewart.)

about that time I remember I was investigating the case. I remember it took place in his office.

The Court: Well, he wasn't representing Mr. Bronson at that time.

Mr. Garland: But the conversation, if your Honor please, had reference to the time here pertinent and the time Mr.—

The Court: I don't think a lawyer can make those statements.

Mr. Garland: That is all, Mr. Stewart, and thank you for coming.

(Witness excused.)

The Court: Call your next witness. [102]

Mr. Erwin: We will call Mr. Roles to the stand.

### RICHARD C. ROLES

was thereupon produced as a witness in behalf of the plaintiff, and, having been first duly sworn, testified as follows:

#### Direct Examination

By Mr. Erwin:

Q. Mr. Roles, you were engaged in an enterprise known as Warrenton Shingle Company, were you not?      A. Yes, sir.

Q. And what year was that started?

A. We started the mill in '35.

Q. And did you participate in that operation from its inception?      A. From the ground.

Q. From the very first?

(Testimony of Richard C. Roles.)

A. From the very first.

Q. And prior to that time what business had you engaged in?

A. I was engaged in the shingle business at Linnton, Oregon.

Q. And did you have any capital to put into this new enterprise, Mr. Roles?      A. I did not.

Q. And when were you and Mrs. Roles married?

A. In 1935, January.

Q. In January of 1935?

A. The 5th day. [103]

Q. Was that about the same time that this mill was being formed down there?

A. Yes; shortly after.

Q. Beg pardon?      A. Shortly after.

Q. You were married shortly after?

A. Yes.

Q. Where did you first meet Mr. Bronson?

A. I met him when I was working in the mill at Linnton. He come up to see me to ask me questions about the shingle mills.

Q. I don't think we have to go into details. Did that conversation eventually result in getting into details?

A. He didn't have much time to talk to me, because I was working, myself.

Q. Working in the mill yourself?

A. Yes.

Q. And did you have a proprietary interest in that mill?      A. Just a one-sixth.

Q. One-sixth interest?      A. Yes.



(Testimony of Richard C. Roles.)

Q. And did you liquidate that when you went into the Warrenton?

A. No. I was in with my brothers, and they decided they wanted a new manager.

Q. Wanted a new manager?

A. A new manager. So they got the new manager, and I left to [104] go in business with Mr. Bronson at that time.

Q. You made no attempt to liquidate your interest?

A. No, I did not, because I didn't want to hurt that company.

Q. When you moved to Warrenton, did Mrs. Roles go with you?           A. The same day.

Q. The same day?           A. Yes.

Q. The same day you were married?

A. No, the same day—we went together that day.

Q. That is when you first started in?

A. First started the business, yes.

Q. Will you advise the Court, Mr. Roles—I don't think I will attempt to limit you. I will just ask you to advise the Court what you and your wife did in regard to services and contributions to the Warrenton Shingle Company.

Mr. Garland: We will object to that. We are not trying the Roles case now.

The Court: I think we have permitted enough background on that when Mr. Bronson was on the stand, now. I don't see any useful purpose in going

(Testimony of Richard C. Roles.)

into the contributions which Mrs. Roles made to the firm.

Mr. Erwin: I think perhaps it will be somewhat cumulative, your Honor. However, I will advise the Court at this time that we will have some authorities to submit to the Court based on the dealings of the parties prior as it relates to intention, [105] and intention to divest themselves of the capital which went into the capital at a later date. It shows a business interest. It will be largely cumulative, as to what Mr. Bronson has already said, but Mrs. Roles performed a great deal of service for the Warrenton Shingle Company.

The Court: We have been letting everything in, but I don't see any useful purpose in this.

Would your testimony be substantially the same as was Mr. Bronson's testimony?

A. Not—maybe I don't understand the question.

The Court: Take five minutes on this point.

Q. (By Mr. Erwin): All right. What did your wife do for the corporation, and yourself?

A. Well, she kept boarders and kept the books and wrote out manifests for shipments, and answered telephone calls, and——

Mr. Garland: That is Warrenton?

A. That is Warrenton; and also Toledo.

Q. (By Mr. Erwin): In other words, she took an active part, a managerial?

A. A very active part.

Q. All right. I think that is sufficient. And that continued right down to the present time?

(Testimony of Richard C. Roles.)

A. Right down.

Mr. Garland: You are going to fix it so we are going to have to go into this.

Mr. Erwin: I assumed the matter was one you wanted me to [106] lead the witness on in order to get to the point.

Mr. Garland: That isn't the way I want you to lead him.

The Court: Let's go ahead.

Q. (By Mr. Erwin): Mr. Roles, in 1941 you purchased the Toledo mill. Is that correct?

A. That's correct.

Q. The Warrenton Shingle Company,—those funds came from the Warrenton Shingle Company?

A. Not all of them.

Q. Where did some of the funds come from?

A. \$1,500 from my wife.

Q. Your wife? A. Yes.

Q. Contributed some to the Toledo enterprise?

A. For the Toledo operation.

Q. Was that by way of additional stock?

A. No. She furnished that much money to go into that.

Q. Was that because you didn't have sufficient capital of your own?

A. Because I didn't have enough to go ahead, or the Company couldn't afford to go ahead.

Q. That was \$1,500? A. That's right.

Q. Well, now, at the time you purchased the Toledo mill, did you move your residence, you and Mrs. Roles? [107] A. Yes, we did.

(Testimony of Richard C. Roles.)

Q. And you moved where? A. To Toledo.

Q. And Mr. and Mrs. Bronson remained at Warrenton. Is that correct? A. Yes, we did.

Q. And you moved where? A. To Toledo.

Q. And Mr. and Mrs. Bronson remained at Warrenton. Is that correct?

A. Remained at Warrenton.

Q. Until the fire which occurred in——

A. That's right.

Q. ——1943? A. October, '43.

Q. What happened immediately after the fire of 1943, Mr. Roles?

A. Well, we immediately went over to Warrenton.

Q. Just tell the Court what took place there.

A. Of course, while we was there we couldn't think much only about the fire, what we had lost, and then after we got over the shock of losing it we talked about buying other mills, so my partner and my wife would have a job to do. There wasn't enough at Toledo, so we traveled different places and looked at other mills we had prospects of.

Q. When you say "we," whom do you mean?

A. Mr. and Mrs. Bronson and my wife and I, and we finally found out about Parkdale and settled on that. . .

Q. Was that Parkdale investment discussed?

A. Invested in what?

Q. Was that Parkdale investment discussed between—— A. Oh, definitely.

(Testimony of Richard C. Roles.)

Q. Who was there during those discussions?

A. The four of us.

Q. Did you and Mrs. Roles and Mr. and Mrs. Bronson sit in on those discussions as well?

A. That's right.

Q. When was your accident, Mr. Roles?

A. December 4th, 1941.

Q. And that was while you were working at——

A. Toledo.

Q. ——Toledo?           A. That's right.

Q. That would be shortly after you purchased it?           A. Right after.

Mr. Garland: If the Court please, we can't see the relevancy that this man suffered an accident. Apparently the testimony here is about Warrenton Shingle Company and has to do with what this gentleman and his wife contributed. True, Mr. Erwin represents him eventually in a tax case, don't you?

Mr. Erwin: Yes. [109]

Mr. Garland: But I would rather not try it here today. It hasn't been arranged for.

Q. (By Mr. Erwin): Well, Mr. Roles, you did eventually, then, purchase the Parkdale mill?

A. That's right.

Q. And let me ask you, did you talk to Mr. Martin about that?           A. Mr. Bronson?

Q. Mr. Martin, the attorney who testified here.

A. I believe I was only there once.

Q. You believe you were there only once?

A. I am not too sure about that.

(Testimony of Richard C. Roles.)

Q. Was there any discussion concerning the partnership agreement?

A. Oh, yes, definitely.

Q. Whom was that discussed by, and where?

A. That was discussed—it was either here in Portland or Mr. Bronson's home, and I just can't—you see, I was busy in Toledo, and we had to come on those trips to talk about those things, and what hotel or what house I just don't remember.

Q. Well, it was discussed some place among the four of you? A. That's right.

Q. Prior to the time of entering into that agreement. Is that correct?

A. That is, definitely.

Q. And it was agreed between the four of you that you would enter into a partnership agreement? [110] A. That's right.

Q. What was your agreement as to services to be contributed and capital to be contributed, and how were you to share profits?

Mr. Garland: May I inquire here before he answers what agreement?

Mr. Erwin: Any agreement.

Mr. Winter: The Parkdale agreement is in evidence.

Mr. Garland: If you are asking him for the oral agreement, there is nothing in evidence other than the certificate of declaration. Do you contend that, as a matter of law, is an agreement?

Mr. Erwin: Yes.

Mr. Garland: Then the agreement speaks for it-



(Testimony of Richard C. Roles.)

self, and we object to the testimony, if it is an agreement under the law.

Q. (By Mr. Erwin): Let me ask you, Mr. Roles—we will have to get at it another way—was there any other written agreement between the partners other than this that has been referred to?

A. You mean about Parkdale?

Q. Yes. A. No, no others.

Q. Was there an oral agreement?

A. That we would form a partnership.

Q. That you would form a partnership. Was there a discussion as to the obligations or capital contributions of the parties?

Mr. Garland: Just a minute, your Honor. He is leading him [111] to try to get him to say.

The Court: Overrule the objection, and make your questions less leading.

Q. (By Mr. Erwin): I think you testified there was an oral agreement.

Mr. Garland: He did not.

Q. (By Mr. Erwin): Was there an oral agreement, then, Mr. Roles, concerning the partnership?

A. You mean before we signed the partnership papers?

Q. Yes.

A. Yes, definitely. We talked that over thoroughly.

Q. All right. And what was the agreement?

A. The agreement was that we would all go in as partners and divide this Parkdale up equally between all.

(Testimony of Richard C. Roles.)

Q. And what was the reason for your taking in the wives, if any?

A. Well, the primary reason was to have somebody up there at each place to take care of business when Mr. Bronson was gone. I had to have somebody there to know the ins and outs of that mill if he had to be away or happened to get hurt or something.

Q. How far is Toledo from Parkdale, if you know?

A. It is 270-some odd miles; from my house.

Q. Was there any discussion about who was to operate the Parkdale mill?

A. Oh, yes, definitely. They was—Mr. Bronson was chosen [112] to operate the mill up there.

Q. And you were to remain?

A. At Toledo.

Q. And operate at Toledo. And has that arrangement continued from that time to date?

A. That's right.

Q. Mr. Roles, now in regard to the distribution of the earnings of the Parkdale Lumber Company, do you know how the distributions were made?

A. Yes.

Mr. Garland: That has already been testified to, your Honor.

Mr. Erwin: It has by another witness. If you will pardon me, I will waive that question and ask him directly,—

Q. Were these checks that were distributed to

(Testimony of Richard C. Roles.)

you on each of the distribution dates endorsed by you and deposited in some account?

Mr. Garland: We object to that. Checks payable to this gentleman, endorsed by him, have nothing to do with the lawsuit here.

The Court: There is no contention that he or his wife or both of them didn't get that money, is there?

Mr. Garland: In the way in which the testimony has developed, it did already. We don't say there were no distributions.

Mr. Erwin: That is a point—I don't know what the Government contends, your Honor. They seem to have some reservation. [113]

Mr. Garland: I think it is apparent they meticulously distributed it check for check, and as far as Mr. Bronson, it was taken out in his own name.

The Court: Mr. Roles isn't concerned here.

Mr. Erwin: They had the individual right to control their own funds. That's the point.

Mr. Garland: This witness can't testify Mrs. Bronson had the right to control her own funds.

Mr. Erwin: He wasn't asked to testify to that.

The Court: Go ahead.

Q. (By Mr. Erwin): Mr. Roles, did you and your wife make investments from your personal account?

Mr. Garland: That is objected to as immaterial.

The Court: Well, I think I am going to go now, and we will take a recess for a half hour, and in the

(Testimony of Richard C. Roles.)

meantime—I think we can finish this today, because we can keep on going until we finish.

Mr. Erwin: Very well.

(Recess.)

(Last question read.)

Mr. Erwin: We will withdraw that question.

Q. What was the reason for making Mrs. Roles and Mrs. Bronson partners in the Parkdale Lumber Company, if any?

Mr. Garland: I think that has been answered, hasn't it?

Mr. Erwin: I don't know whether I asked it of this witness. [114]

The Court: Not from this witness.

Mr. Garland: I object to that. It isn't a question of what this man intended.

Mr. Erwin: This is a four-way partnership. It is the intention of all four partners.

Mr. Garland: The intention of the taxpayer and his wife may be a matter to be gone into, but the intention of Mr. Roles and his wife is nothing that we have to concern ourselves with in this case.

The Court: Well, I think that I am going to let this evidence in as it affects the whole scene, although I think everyone here realizes that such testimony is not the best type of testimony as compared with what the parties did, because it is merely a self-serving declaration and may be construed that way.

(Testimony of Richard C. Roles.)

Mr. Erwin: Your Honor, of course, it is a question of intent.

The Court: I am going to let him answer.

(Last question read.)

A. Well, our primary reason was that they were thoroughly familiar with the business, and we wanted somebody that could fill in when we was gone, and we can't always be there, and that was the main reason, one of the main reasons, of getting the women into the partnership.

Q. (By Mr. Erwin): Did you know, Mr. Roles, of the intention or did you know of any negotiations regarding the dissolution [115] of the Warrenton Shingle Company and formation of a limited partnership there?

A. Well, I think Mr. Bronson spoke to me about that also.

Q. Was that discussed, do you recall?

A. That was discussed, whether we should do that, and the last I heard, we were going to, but we didn't, and I don't know why.

Q. You don't know why?

A. No, because I was down there and wasn't up here.

Q. There was a discussion of that question?

A. That's right.

Q. And did that discussion involve both Mr. and Mrs. Bronson and Mrs. Roles and yourself?

A. Yes, it did.

Q. Now, Mr. Roles, as to Ashbaugh Shingles

(Testimony of Richard C. Roles.)

and Shakes income, when did you first become acquainted with Mr. Stark?

A. As near as I can remember, that was the first part of '45.

Q. And will you tell the Court what happened, when you met him, how you came to meet him, and so forth?

A. Well, during that time there was a number of shingle buyers coming up from Los Angeles and California and wanting to buy, and, of course, he was just one of them. As far as I was concerned, I didn't make no agreement, told him I couldn't send him shingles, that I was already selling to the government and Reliance and Ashbaugh, and different customers, and so then [116] he—that was the first interview. Well, then, he was gone possibly three or four weeks, and come back up and wanted to know if he could—if he would buy out Ashbaugh's if we would deal with him, and I told him, no, we couldn't do that; we had other commitments. And so it went along, and then he formed this partnership with the girls, and we didn't sell him all of our shingles after that; maybe half of them.

Q. Well, now, you say when "he formed this partnership with the girls." You are speaking of Mrs. Roles and Mrs. Bronson?

A. That's right.

Q. Do you know how that came about? Were you contacted in that regard?

A. No, not until after he had approached them. He approached my wife.



(Testimony of Richard C. Roles.)

Q. How did he become acquainted with Mrs. Roles?

A. Well, him and his wife come up to our house and stayed there one—no, they stayed at the hotel and visited back and forth, and that was brought up at that time.

Q. That was on a previous occasion that he had come up to——

A. That's right.

Q. ——to purchase shingles. Is that correct?

A. Yes.

Q. And did he contact you prior to contacting Mrs. Roles concerning this?

A. Well, he had contacted me several times about buying shingles, [117] but I couldn't sell to him under the agreements I had, under the OPA, and all this, and there was nothing said about other prices than that.

Q. Prior to the time that Mrs. Roles entered into this agreement with him, did he discuss with you his intention to take the wives in as partners?

A. Well, I don't think he did with me.

Q. You say you don't think he did?

A. I don't remember him approaching me on that subject until he had this all planned out.

Q. Yes. I say, he had it planned out. But did he contact you prior to planning it out?

A. About this deal?

Q. Yes; with Mrs. Roles and Mrs. Bronson.

A. No, no.

Q. Do you know whether he talked to you about

(Testimony of Richard C. Roles.)

this agreement before he actually received Mrs. Roles' signature on the document?

A. Oh, yes. I think he had.

Q. And had you and Mrs. Roles then discussed whether or not it would be advisable for her to enter into that partnership?

A. Yes, I and my wife had discussed that some.

Q. And will you tell the Court what the nature of that discussion was?

A. Oh, I wasn't going to stand in the way of her making a little if I could, and so I told her to go ahead and do that providing [118] it was legal from the attorneys' standpoint.

Q. Did you get an opinion from the attorneys?

A. I think so. I can't say that. I don't know that we did, other than their own attorney.

Q. Other than their attorney? A. Yes.

Q. Did he tell you that their attorneys had been consulted about the matter?

A. That's right; yes.

Q. Do you know Mr. Frank Belcher?

A. I never met the man in my life.

Q. Did you know that he was connected in some way? A. I knew he was Morgan's attorney.

Q. You knew he was connected?

A. By hearing him say it, yes.

Q. Did you receive personally any income from Ashbaugh Shingles and Shakes?

Mr. Garland: We object to that.

The Court: Objection sustained. He is not connected with this case. What he received personally

(Testimony of Richard C. Roles.)

would have no effect upon this case at all. You may ask that question of Mr. Bronson, but I don't see what Mr. Roles would have to do with it.

Mr. Erwin: Well, your Honor, as I understand the picture, the government is contending this was not a bona fide partnership, and the two members of that partnership were Mrs. Roles and Mrs. Bronson, and I think it would be material as to whether [119] or not—and I understand the government is making some contention that it was an indirect assignment of income of Warrenton Shingle Company.

Mr. Garland: Will counsel just let us say what the government contends? We would be happy and less confused. We contend this is an assignment of income in substance and effect, and we are not talking about Mr. Roles' income right now, either, and that is the basis of our objection.

Mr. Erwin: I think we would ask for a ruling on that, your Honor.

The Court: I will tell you what I am going to do. I am going to let you answer it, but I will tell you right now I am wholly unimpressed with this line of testimony and the arrangements they have made from these two witnesses, but you may go ahead.

Mr. Erwin: What was the question?

The Witness: I know the question.

Mr. Erwin: If you know it, go ahead.

A. I would say "Yes," from Ashbaugh Shingles and Shakes to the extent of our mill invoices; noth-

(Testimony of Richard C. Roles.)

ing more. What she got I had nothing to do with it.

Q. (By Mr. Erwin): Did Warrenton Shingle sell Ashbaugh Shingles and Shakes at the standard price?

A. That's right; and that is all we got out of the deal was Warrenton Shingle Company, me and Mr. Bronson. Of course, [120] we got paid for those invoices, and that is all we made out of that deal.

Q. That is the same as you would with any other customer? A. That's right.

Mr. Erwin: I think that is all. You may inquire.

#### Cross-Examination

By Mr. Garland:

Q. Did Mrs. Roles take an active part in the management of the Parkdale Lumber Company?

A. Did I?

Q. Did Mrs. Roles? A. Why, yes.

Q. What did she do?

A. Well, very often we had our conferences together and about timber conditions, business conditions and timber sales and buying.

Q. We are talking about Parkdale.

A. That's right. We are talking about Parkdale.

Q. Did Mrs. Robles spend any time in Parkdale?

A. Oh, we was up there on an average of four to five times a year.

Q. Four or five times a year?

(Testimony of Richard C. Roles.)

A. Yes; called in there,—and I can't say exactly how many times, but there was a number of times to go there on business.

Q. Did she work there?

A. Work there? [121]

Q. Yes. A. When we was there.

Q. Four or five times a year?

A. We went over the business conditions at the mill.

Mr. Garland: That is all.

Mr. Erwin: That is all.

(Witness excused.) [122]

Mr. Erwin: Call Mrs. Bronson.

### MILDRED P. BRONSON

was thereupon produced as a witness in behalf of the plaintiff, and, having been first duly sworn, testified as follows:

#### Direct Examination

By Mr. Erwin:

Q. Mrs. Bronson, since it is fresh in my mind, I think I will ask you first about Ashbaugh Shingles and Shakes income. Did you provide any services to the Ashbaugh Shingles and Shakes partnership of any nature, and, if so, just tell the Court what, if anything, you did in that regard.

A. Signed the checks.

(Testimony of Mildred P. Bronson.)

Q. Just endorsed the checks? A. Yes.

Q. You mean the checks given to you?

A. Yes.

Q. Did you do anything in a business way for that firm at all? A. No.

Q. You did, however, enter into that agreement the partnership agreement? A. Yes.

Q. And how did that come about? What were the circumstances concerning the signing of that agreement, if you will just tell the Court?

A. He and his wife came to our place—is that what you mean? [123]

Q. Well, just whatever happened.

A. ———and talked over what his plans were, and Mrs. Roles and I just accepted the fact that it was a good way to make a little money, and we signed the papers that he had made out.

Q. You mean that was all there was to the conversation? A. That is all there was.

Q. And did he come to Parkdale, or was that at Warrenton? A. He came to Parkdale.

Q. He came to Parkdale. And then you did receive distributions by way of check?

A. Yes.

Q. Now, what were your duties, if anything, in connection with the business operation known as Parkdale Lumber Company, Mrs. Bronson?

A. When my husband wasn't there, I was available to give them, give the millwright the right to do whatever—when he wanted to know something, he asked me so that I would give him the authority



(Testimony of Mildred P. Bronson.)

to do it, and answering the phone was necessary then. We at no time have had a stenographer, and all the information they wanted to know came to the house where I was.

Q. And your home is located on the mill site. Is that correct?      A. Yes.

Q. Closely adjacent to the mill?      A. Yes.

Q. Now, were there discussions involving the operation of the [124] mill office carried on in the mill office, or in your home?      A. In our home.

Q. And were you expected to do any physical work, bookkeeping or anything of that kind?

A. No.

Q. Were you consulted before the Parkdale Lumber Company was purchased in regard to the purchase of that?      A. Yes.

Q. Where did that discussion take place, Mrs. Bronson?      A. At our home in Seaside.

Q. And at that time was there a discussion of a partnership or the form of organization which you would adopt after the purchase of that mill?

A. I don't remember exactly just what did go on, just have a faint recollection then.

Q. What do you remember about the partnership and how it happened to include you?

A. Since that bad accident that Mr. Roles had in Toledo, why it seemed that since the mills were so far apart why it would be a good idea to have another partner there in case the same thing or a similar accident would happen to my husband.

(Testimony of Mildred P. Bronson.)

Q. Was that discussed as one of the reasons before this partnership agreement was entered into?

A. Yes.

Q. And the four of you were there when that was discussed? [125] A. Yes.

Q. Was there any other reason that you can think of that was discussed at that time for having you as a partner in the Parkdale Lumber Company in anything you remember, Mrs. Bronson? Will you just tell the Judge what you remember about the Parkdale agreement and discussions?

A. There was a lot, but I don't know.

Q. You cannot remember any of the details of it? A. No.

Q. Now, was it a customary thing that the source of the operation—I mean the details of the operation of the Warrenton Shingle Company had been discussed in your presence?

A. Would you state that question again?

Q. Was it a customary thing to discuss the details of the operation of the Warrenton Shingle Company in your presence? A. Yes, it was.

Q. Those discussions were between whom?

A. The four of us, Mr. and Mrs. Roles, and Mr. Bronson, and myself.

Q. And it had always been done pretty near since you started in business, of course?

A. Yes.

Mr. Erwin: I think that is all.

Mr. Garland: I have no questions.

The Court: I should like to ask a question.

(Testimony of Mildred P. Bronson.)

How much of your own money did you put into the Parkdale Lumber Company? Did you have any money?      A. No.

The Court: When you married Mr. Bronson, did you have any money of your own?

A. Just a hundred dollars.

The Court: And were you employed any place else besides—did you have independent employment after you were married? Were you working for anybody?

A. After I married—no. Then I started to raise my family.

The Court: And you have two children?

A. Three.

The Court: Oh, three children. The details of operation which you discussed with Mr. and Mrs. Roles and your husband,—they didn't come down very often, did they?      A. Roles, you mean?

The Court: Yes.

A. Yes, they did. I mean they came four times a year, if you call that very often.

The Court: And that was the only time you discussed?      A. Oh, over the phone, too.

The Court: Did you discuss with them the question of how much interest you should pay for bank loans and things of that kind?

A. I don't understand that. [127]

The Court: Did you discuss with them the financing of the business and how much money you were to borrow from the bank and on what terms?

(Testimony of Mildred P. Bronson.)

A. Well, perhaps I wasn't too involved in that.

The Court: Were you acquainted with the price of lumber and shingles, or lumber, at this particular time during the years '44, '45, and '46?

A. Well, it changed pretty often. I'm afraid I didn't keep up with that.

The Court: All right.

Mr. Garland: I might ask one question, if you please.

### Cross-Examination

By Mr. Garland:

Q. You say that the only thing you did, so far as Ashbaugh Shingles and Shakes were concerned, was endorse the checks? A. Yes.

Q. And by that you mean all of the checks that you received during the taxable years '44, '5, and '6. Is that what you mean? You endorsed all the checks? A. Well, all of the checks.

Q. That were sent to you? A. Yes.

Q. And you turned them over to your husband, and he put them in the joint account?

A. That's right. [128]

Mr. Garland: All right. That's all.

Mr. Erwin: Mrs. Bronson, let me ask you a question or two.

### Redirect Examination

By Mr. Erwin:

Q. Give me the name of the logging foreman that was employed by the Parkdale Lumber Company.

(Testimony of Mildred P. Bronson.)

A. Right at first?

Q. Any time.

A. Roy Stearns and now it is Buzz Gray.

Q. Was he employed to start with?

A. Yes.

Q. Which one to start with?

A. Roy Stearns.

Q. Roy Stearns was employed at first?

A. Yes.

Q. Give the Judge the names of some of the employees up there and what their occupations were.

A. Oscar Stearns is a millwright, and he has been with us all the time. The sawyers have changed.

The Court: I might tell you, Mr. Erwin, that my wife usually knows the names of my secretaries and a lot of other people.

Mr. Erwin: I think that is a little different than in a lumber mill.

Mr. Garland: May I make this statement to counsel. Do [129] we understand that you contend this lady ran that sawmill?

Mr. Erwin: We certainly do not.

Mr. Garland: That is what I thought.

Mr. Erwin: Her duties are certainly different than that.

#### Recross-Examination

By Mr. Garland:

Q. Mrs. Bronson, do you consider yourself a mother and a good housekeeper, or a good business woman and responsible in either one of these partnerships?

(Testimony of Mildred P. Bronson.)

A. I am a mother and a pretty good housekeeper, but the town keeps me pretty busy, too.

Mr. Garland: That's all.

(Witness excused.)

Mr. Erwin: Mrs. Roles.

### JANET ROLES

was thereupon produced as a witness in behalf of the plaintiff, and, having been first duly sworn, testified as follows:

#### Direct Examination

By Mr. Erwin:

Q. Mrs. Roles, what part did you have in the operation, if any, of the Warrenton Shingle Company?

Mr. Garland: I think that is objected to, your Honor.

The Court: Well, I have let it in before.

Mr. Garland: I make still this further objection.

The Court: And it is not going to take very long, because Mrs. Bronson wasn't on the stand very long.

Mr. Erwin: That's right.

The Court: Go ahead.

A. At the very first?

Q. (By Mr. Erwin): Just as it happened.

A. Well, we went down there, I and my husband, and they broke the ground and started the mill, and



(Testimony of Janet Roles.)

I had some millwrights, construction men, that had to be fed, and so I cooked three meals a day for them, and then I had to make out invoices, and I answered the phone whenever Mr. Bronson was away, had to be away.

Q. You are speaking of Warrenton? [131]

A. That's right.

Q. Now, did you continue doing the work of that nature right on through?

A. That's right; that's right.

Q. Have you taken any part at all in the active supervising of the Parkdale Lumber Company?

A. I have to sign the timber sales contract—all four of us have to sign that—and that is very important. I mean they couldn't operate without timber, and if they have any discussion as to how the business is, change of policy, or orders or what-not, it is discussed with the four of us. After all, we are equally concerned in it.

Q. But I was particularly speaking, Mrs. Roles, of active management. In other words, whether you went out and actually——

A. No, oh, no.

Q. Did you make out invoices for the mill?

A. Parkdale?

Q. Yes.           A. No.

Q. You were not on the site there. Is that correct?           A. That's right.

Q. Now, you may tell the Court, if you will, what discussions took place concerning the formation of the Parkdale partnership.

(Testimony of Janet Roles.)

A. Well, we discussed the values of the partnership in this respect. We were well acquainted, and we figured that a four-way [132] partnership would be very agreeable, especially since it has been proven. When my husband had an accident I had to take over, and it was to the benefit of the Company to have someone personally interested in the Company on the spot at the time, and that could very easily happen in a very hazardous occupation. That was a consideration, a great consideration.

Q. Was that the only discussion that took place concerning the reasons for including you as a member of the partnership?

A. For including me?

Q. You and Mrs. Bronson.

A. Yes, I believe so.

Q. You have worked with your husband in the operation of the Warrenton Shingle Company?

A. Yes, that's right.

Mr. Erwin: I think that is all.

#### Cross-Examination

By Mr. Garland:

Q. Mrs. Roles, were you an officer of Warrenton Shingle Company? A. No, sir, I was not.

Q. Mrs. Bronson, was she an officer of the Warrenton Shingle Company? A. Officer?

Q. President, Vice-President?

A. She is now.

Q. Was she during the years here in question?

(Testimony of Janet Roles.)

A. I don't believe so.

Q. '44, '45, and '46?

A. I don't believe so. I wouldn't be certain, though.

Q. Did you have the power to draw checks on the Warrenton Shingle Company?

A. No, I didn't.

Q. Or on Parkdale?

A. To write checks?

Q. Yes. Did you write checks?

A. No.

Q. Did Mrs. Bronson?

A. I don't believe so.

Q. Your husband testified a moment ago you put \$1,500 of your own money in Warrenton. Is that correct?

A. That's correct.

Q. Where did that money come from?

A. I borrowed it.

Q. You borrowed it? A. Yes.

Q. Where? A. From my mother.

Q. On a note? A. Yes.

Q. Did Mr. Roles sign the note, too?

A. I don't remember. [134]

Mr. Garland: That is all.

Mr. Erwin: That is all, Mrs. Roles.

(Witness excused.)

Mr. Erwin: That is the plaintiff's case.

We will ask the Court to take judicial knowledge of the Oregon law in regard to limited partnerships and Washington law in regard to community property.

The Court: We will take judicial knowledge of that.

And that is your case, too?

Mr. Garland: Does plaintiff rest?

Mr. Erwin: Plaintiff rests.

Mr. Garland: Defendants rest, too.

(Thereupon counsel argued the case to the Court in behalf of their respective clients, following which the trial of the above-entitled cause was adjourned.) [135]

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[Title of District Court and Cause.]

#### REPORTER'S CERTIFICATE

I, Catherine Mulvey, Official Reporter of Department No. 8 of the Circuit Court of the State of Oregon, Fourth Judicial District, certify that I have transcribed into typewriting the stenograph notes taken in the trial of the above entitled cause of Glenn G. Foster, Official Reporter of the above entitled Court, now deceased; and that the foregoing and hereto attached 135 pages of typewritten matter, numbered 1 to 135, both inclusive, contain a full, true, and accurate record of the stenograph notes of the said Glenn G. Foster, deceased, taken upon the trial of the said cause.

Dated at Portland, Oregon, this 11th day of December, 1950.

/s/ CATHERINE MULVEY.

United States of America,  
District of Oregon—ss.

### CERTIFICATE OF CLERK

I, Lowell Mundorff, Clerk of the United States District Court for the District of Oregon, do hereby certify that the foregoing documents consisting of complaint, answer, pre-trial order, findings of fact and conclusions of law, objections to proposed findings of fact and conclusions of law, order denying motion of plaintiff for a new trial, and overruling objections to proposed findings of fact and conclusions of law, judgment, notice of appeal, bond on appeal, designation of contents of record, order for clerk to forward exhibits, transcript of docket entries, and clerk's certificate constitute the record on appeal from a judgment of said court in a cause therein numbered Civil 5299, in which Charles D. Bronson, Jr., is plaintiff and appellant, and Hugh Earle, Collector of Internal Revenue for the State of Oregon, and the United States of America, are defendants and appellees; that the said record has been prepared by me in accordance with the designation of contents of record on appeal filed by the appellant, and in accordance with the rules of this court.

I further certify that there is enclosed herewith duplicate transcript of testimony dated July 11, 1950, filed in this office in this cause, together with exhibits 10 to 27 inc., 29, 32, 35, 38 to 42 inc., 108. 123 to 129 inc.

I further certify that the cost of filing the notice of appeal is \$5.00 and that the same has been paid by the appellant.

In Testimony Whereof I have hereunto set my hand and affixed the seal of said court in Portland, in said District, this 3rd day of February, 1951.

[Seal]                      LOWELL MUNDORFF,  
Clerk,

By /s/ P. L. BUCK,  
Chief Deputy.

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[Endorsed]: No. 12846. United States Court of Appeals for the Ninth Circuit. Charles D. Bronson, Jr., Appellant, vs. Hugh Earle, Collector of Internal Revenue for the District of Oregon and United States of America, Appellees. Transcript of Record. Appeal from the United States District Court for the District of Oregon.

Filed February 5, 1951.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for  
the Ninth Circuit.



In the United States Court of Appeals  
for the Ninth Circuit  
No. 12846

CHARLES D. BRONSON, JR.,

Plaintiff,

vs.

HUGH EARLE, Collector of Internal Revenue for  
the District of Oregon and UNITED STATES  
OF AMERICA,

Defendants.

DESIGNATION OF CONTENTS OF RECORD  
AND POINTS ON APPEAL

To: Hugh Earle, The United States of America  
and to Henry L. Hess, U. S. Attorney, and to  
Victor Harr, their attorneys of record.

You and each of you will take notice that plaintiff designates for inclusion in the record on appeal of the above-entitled case to the United States Court of Appeals for the Ninth Circuit the following portions of the record, proceedings and evidence in such case in the District Court:

1. Pretrial order omitting the list of exhibits.
2. Finding of fact and conclusions of law.
3. Objection to findings and conclusions.
4. Order overruling objections and ordering the entry thereof.
5. Judgment.
6. This designation and points.
7. Transcript of testimony.

8. Exhibits Nos. 10, 11, 12, 13, 14 and 15.
9. Exhibits Nos. 16, 17, 18, 19, 20, 21 and 38.
10. Exhibit No. 22.
11. So much of Exhibit No. 23 as shows the parties to whom issued and the endorsement correcting insured; and first page of Exhibit No. 24 showing names of insured.
12. Exhibit No. 25.
13. Exhibit No. 26.
14. Exhibits No. 27 and No. 108.
15. Exhibits Nos. 29, 32 and 35.
16. Exhibits Nos. 39, 40 and 108.
17. Exhibits Nos. 41 and 42.
18. Exhibits Nos. 123, 124, 125, 126.
19. Exhibits Nos. 127 and 128.
20. Exhibit No. 129 without the exhibits therein identified.

Points on appeal on which plaintiff expects to rely:

1. That there was insufficient evidence to support the findings of fact entered by the court and each of them.
2. That the conclusions of law based on said findings of fact and conclusions of law are therefore erroneous.

3. That the conclusions of law are not in accordance with law and are against the weight of authority and the evidence.

4. That where two families not related are members of a partnership, there can be no reapportionment of income as between the family members for tax purposes.

5. That there can be no reapportionment of income within the family group where there was no income to apportion when the partnership was formed.

6. That said partnership could not have been formed for tax purposes solely when there was no income to be taxed.

7. That when a new business venture is formed, the judgment of the parties is conclusive as to the value of services to be rendered by the partners.

8. That if a partnership is valid for any purpose, it is valid for tax purposes save and except where its sole purpose is the avoidance of taxation.

9. That where a person has no right to control the management of a business or its policies and makes no contribution thereto in any form and received no benefits nor income therefrom, then the income from such business can not be taxable to him.

10. That a corporation can not be a lawful partner.

11. That a person can not assign something which he never had the right to control.

BOYD, FERRIS & ERWIN,  
Attorneys for Plaintiff.

A true and correct copy:

/s/ WARD H. ERWIN,  
Of Counsel for Plaintiff.

[Endorsed]: Filed February 14, 1951.

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United States Court of Appeals  
for the Ninth Circuit  
No. 12846

CHARLES D. BRONSON, JR.,

Appellant,

vs.

HUGH EARLE, Collector of Internal Revenue for  
the District of Oregon and UNITED STATES  
OF AMERICA,

Appellees.